

July 28, 2009



TRANSCRIPT

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MONTGOMERY COUNTY COUNCIL

PRESENT

Councilmember Phil Andrews, President

Councilmember Roger Berliner, Vice President

Councilmember Marc Elrich

Councilmember Nancy Floreen

Councilmember George Leventhal

Councilmember Valerie Ervin

Councilmember Michael Knapp

Councilmember Duchy Trachtenberg



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1 COUNCIL PRESIDENT ANDREWS:

2 Good morning, everybody, and welcome to a meeting of the County Council. This is our
3 final Council meeting before the summer recess, and we have a long agenda and a
4 weighty agenda, as you can see from the packet, but we're going to begin our session as
5 usual with an invocation, and this one will be -- and I appreciate her being here -- Mary
6 Alice Rose, the Chair of the Board of Trustees at the First Church of Christ, Scientist,
7 Chevy Chase. Thank you for joining us. And please stand, everybody.

8
9 MARY ALICE ROSE:

10 Good morning. Thank you, Mr. President. This morning, I'd like to read a short poem. This
11 poem speaks to me about letting the love that is God shine forth in our lives, about being
12 a transparency for good. My prayer for the members of the County Council and for all of
13 us here today is that all of us embody the spirit of this poem today and every day in our
14 lives. It's an anonymous poem, but I think it's fairly well known. Let us pray. "Others may
15 be art glass of rainbow hue; I choose to be a windowpane for the sun to shine through. A
16 clear pane, a clean pane, is what I would be, unconcerned with temperament and
17 personality. I would have love shine through me so that my friends would say not, "What a
18 lovely pane of glass," but, "What a lovely day." Amen.

19
20 COUNCIL PRESIDENT ANDREWS:

21 Thank you, Miss Rose. I want to note that we have two Boy Scouts with this morning from
22 Troop 249. Welcome. I think they're working on their badges. So, happy to have you here,
23 and if you have any follow-up questions for the Council, please feel free to contact me or
24 our other Councilmembers. We'll be happy to get you information that you may need. We
25 have an excellent staff, as well, that we call on, so... Good to see you. We're now going to
26 have a presentation that is a proclamation in recognition of Prachee Devadas, the 2009
27 Maryland State Small Business Person of the Year, by Councilmembers Ervin and
28 Floreen.

29
30 COUNCILMEMBER FLOREEN:

31 Thank you. Come on up. We are so pleased to be able to honor you today. Miss Ervin and
32 I think we're -- I think we're competing to make sure that we could recognize you. It's
33 especially wonderful to have a woman receiving this tremendous award. It's Prachee
34 Devadas, who is the president and CEO of Synergy Enterprises, who was named
35 Maryland State Small Business Person of the Year. And maybe President Obama said it
36 best when he said to Miss Devadas and the other awardees, "Running a successful small
37 business is impressive in any year, but it's especially impressive this year, when we're
38 experiencing the most serious economic downturn in generations." We're so proud that
39 you located your successful business here in Montgomery County, in Silver Spring, and
40 I'm really pleased that in this tough economy, you're providing about 100 jobs locally.
41 That's fabulous. Miss Ervin?

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1
2 COUNCILMEMBER ERVIN:

3 I'm just very excited to be here, too, to honor you as the state has honored you, and I'm so
4 happy that you're in Silver Spring, where we need to support local small business, and
5 we're so thrilled about your receiving this award. And I'm here because Councilmember
6 Floreen keeps her eye on talented women in our community, and she made sure that I
7 was included in today's ceremony.

8
9 COUNCILMEMBER FLOREEN:

10 So to honor you, we have a cele -- have a proclamation that -- shall we take turns reading
11 this, Miss Ervin?

12
13 COUNCILMEMBER ERVIN:

14 I don't have my glasses on.

15
16 COUNCILMEMBER FLOREEN:

17 OK. Well, then, I'll -- we'll -- you'll read it with me in spirit. "Whereas, Prachee Devadas,
18 president and CEO of Silver Spring-based Synergy Enterprises, Inc., was named the 2009
19 Maryland State Small Business Person of the Year; and whereas, Synergy Enterprises,
20 Inc., is an 8(a)-certified, woman-owned company providing technical services to local,
21 national, and international clients in the public and private sector; and whereas, since
22 founding the company in 2003, Miss Devadas has grown Synergy Enterprises from a
23 professional services firm with one federal government contract in a specific service area
24 to a company with more than 30 current prime contracts and subcontracts in six service
25 areas within 10 major agencies -- way to go, girl -- and whereas, Miss Devadas joined
26 business leaders in the East Room of the White House, where President Barack Obama
27 congratulated awardees for running successful businesses during the most serious
28 economic downturn; and whereas, Montgomery County is so proud of the success Miss
29 Devadas has achieved through hard work, innovative ideas, smart leadership, and skilled
30 workers, and the County encourages the development of other women- and minority-
31 owned businesses through the County's Economic Development Fund and related
32 financing programs; now, therefore, be it resolved that the County Council of Montgomery
33 County hereby honors Prachee Devadas and applauds her being named the 2009
34 Maryland State Small Business Person of the Year." Signed on this 28th of July in the
35 year 2009 by our esteemed Council President, Phil Andrews. So congratulations so very
36 much.

37
38 PRACHEE DEVADAS:

39 Thank you so much.

40
41 COUNCILMEMBER ERVIN:

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1 Congratulations.

2
3 COUNCILMEMBER FLOREEN:

4 And can you share with us some words of wisdom? Here. Take the mike.

5
6 PRACHEE DEVADAS:

7 Well, first of all, I'd like to really thank you all, Councilmembers especially, for recognizing
8 my achievement. I'm very humbled by it and by your gesture of kindness and recognition,
9 and I will not fail the County or the state of Maryland -- for that, USA -- in doing the best
10 job that I can as a small business owner. I think the distinction that we have as small
11 business owners is that we are part and parcel of our business. It becomes our personal
12 and professional life to the point that we're very passionate about what we do for our
13 business, and so, for the community as a whole. And I'd like to be considered, perhaps in
14 the future, to be able to be of more service to the Council in any way that you may
15 choose. Of course, I'll be, you know, more than happy to provide some feedback to
16 upcoming businesses because they say that, you know, it's very good to be a -- it's the
17 analogy of, you can be a very good chef, but you may not be the best restaurateur. So
18 you may have the technical skills, but to run a business, you have to have a gamut of
19 other, you know, complementary skills, as well, and I never recognized that I had them till
20 my husband, who has been my main motivator and, you know, inspiration -- and I have to
21 thank him wholeheartedly, along with my family, for allowing me to see if I could be an
22 entrepreneur and a businessperson, and I'd like to be able to look at young -- young
23 people today, as well as women and minority business owners, and see if there's anything
24 I could do, words of advice, on lessons learned. And they may be very -- they may not be
25 very formal, but I think that it's the day-to-day frustrations that you go through and how
26 you are able to successfully overcome them through the resources that are there, through
27 the advice and the mentorship of friends and family. I think that's really important. So I'm
28 not going to take up too much time, but I do thank you all for your recognition.

29
30 COUNCILMEMBER ERVIN:

31 Thank you.

32
33 COUNCILMEMBER FLOREEN:

34 Thank you very much. Well, that's tremendous of you to offer those mentor -- that
35 mentoring assistance. We can all benefit from that. And with that, we have the required-
36 by-law group picture.

37
38 COUNCIL PRESIDENT ANDREWS:

39 Good job. Congratulations again, Miss Devadas, and thank you, Councilmembers Floreen
40 and Ervin, for doing the honors. We're now going to move on to general business and
41 announcements, agenda and calendar changes. Miss Lauer.

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LINDA LAUER:

Good morning. The Consent Calendar this morning, we do have a change on Item G. Instead of action, the Council will be passing a resolution to extend time. That's not quite ready for action. And that's the Executive Reg on establishment of the annual registration fee for common ownership communities.

COUNCIL PRESIDENT ANDREWS:

OK.

LINDA LAUER:

We have two additional items for the Consent Calendar: introduction of a resolution to support an application for the state of Maryland Neighborhood Business Works Program loan for the Hook and Ladder Restaurant in Silver Spring. Introduction of a special appropriation for the Department of Police -- \$53,330 for the Byrne Justice Recovery Act. It's a grant with a public hearing and action planned for September 15. The announcements the Council has are -- of a number of public hearings in September. The Gaithersburg West Master Plan, we're due to receive, hopefully, by the end of the week, and if so, then the plan is to have the public hearing on September 15 at 7:30 P.M. The Executive Regulation on Agricultural Land Preservation easement purchases, also Building Lot Termination Easement program, scheduled for a public forum on September 17 at 7:30. The public hearing on Spending Affordability Guidelines will be September 22 at 1:30. The Growth Policy -- that will go to public hearing on September 22 at 7:30, and then the Council is going to have a public forum on speed control strategies on September 29. Thank you.

COUNCIL PRESIDENT ANDREWS:

Thank you, Miss Lauer. And as my colleagues can see, we have -- we're going to have a very busy September in terms of public hearings, as well as other matters. I see a couple of comments. Councilmember Elrich and then Councilmember Knapp.

COUNCILMEMBER ELRICH:

I just wanted to comment that, on the one hand, I'm very happy to see the Hook and Ladder grant in there, because it would be nice to have that open finally. I understand it won't be what was originally planned, but there will actually be a two-phase development of the facility, but it will be bigger, in time, than what was originally envisioned. And I would just like to also say that I do not support the -- the abandonment of Reed Street in Bethesda. I'm not going to ask to take it off the agenda.

COUNCIL PRESIDENT ANDREWS:

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1 We're actually -- yeah, we're not actually on the Consent Calendar yet, so if you can hold
2 off on that comment for now, we'll come back to you in just a little bit. I can understand
3 how you thought we were, because several items were announced that were being added
4 to it, but we're not actually on it yet. Councilmember Knapp, did you want to...

5
6 COUNCILMEMBER KNAPP:

7 Just -- I mean, on the announcements, you referenced it, and I think it's important for us --
8 and I don't know where Neil is -- to the extent that -- oh, there he is. When we come back
9 in session on September 14 or 15, it is going to be pretty crazy right out of the hopper,
10 and I think to the extent that we have a few weeks to try and get that information out there
11 so we have that pretty prominently displayed on our web site, it's just going to be busy real
12 fast, with some pretty high-profile issues, and I just wanted as many people to know as
13 possible. So to the extent that we could, in this intervening period when we're not around,
14 and so there's not necessarily that much press being generated as to things that are
15 coming up, to the extent that we can have that pretty prominently displayed on our web
16 site as to "these things are going to happen the first couple of weeks" might be helpful.

17
18 COUNCIL PRESIDENT ANDREWS:

19 Yes. Excellent suggestion, and I'll work with our -- our -- our good staff member Neil
20 Greenberger on working with the media to make sure that the community is aware --
21 reaching out to the community. Thank you. OK. So those are the announcements. Are
22 there any acknowledgements?

23
24 LINDA LAUER:

25 Yes, we do have -- we received a number of petitions, one opposing Bill 25-08, the
26 Emergency Medical Services Transport fee. We have one supporting full funding of the
27 Libraries budget, supporting Suburban Hospital's campus enhancement project,
28 supporting a boycott of Ride On Bus Route 70 in opposition to fare increases, and one
29 opposing the widening of I-270.

30
31 COUNCIL PRESIDENT ANDREWS:

32 OK. Thank you, Miss Lauer. Our next item --

33
34 LINDA LAUER:

35 I'm sorry. There was one more.

36
37 COUNCIL PRESIDENT ANDREWS:

38 OK.

39
40 LINDA LAUER:



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1 It -- I'm sorry, it was just a second petition on the widening -- supporting the widening of I-
2 270.

3
4 COUNCIL PRESIDENT ANDREWS:

5 OK. So we're hearing --

6
7 LINDA LAUER:

8 One opposing, one supporting. Thank you.

9
10 COUNCIL PRESIDENT ANDREWS:

11 OK. Thank you. Our next item is action on approval of minutes of July 14, 2009. Is there a
12 motion for approval?

13
14 COUNCILMEMBER FLOREEN:

15 So moved.

16
17 COUNCIL PRESIDENT ANDREWS:

18 Moved by Councilmember Floreen. Seconded by...

19
20 COUNCIL VICE PRESIDENT BERLINER:

21 Second.

22
23 COUNCIL PRESIDENT ANDREWS:

24 Council Vice President Berliner. OK. All in favor of approval of the minutes of July 14,
25 2009, please raise your hand. That is Councilmember Elrich, Councilmember Floreen,
26 myself, Council Vice President Berliner, Councilmember Knapp, Councilmember Ervin,
27 and Councilmember Leventhal. They are -- it is approved, 7-0. I should mention that
28 Councilmember Navarro will not be with us today, and Councilmember Trachtenberg is
29 speaking on behalf of the Council at the moment at the Family Justice Center but will
30 return fairly soon. We're now going to move on to the Consent Calendar. Is there a motion
31 for approval?

32
33 COUNCIL VICE PRESIDENT BERLINER:

34 So moved.

35
36 COUNCILMEMBER KNAPP:

37 Second.

38
39 COUNCIL PRESIDENT ANDREWS:

40 All right. Moved by Council Vice President Berliner. Seconded by Councilmember Knapp.
41 I'm going to give everybody just a quick chance to think if they want to say anything. I'm

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1 going to read the names of the people that we are confirming today to our boards and
2 commissions, because as our honoree noted this morning -- and graciously offered to
3 assist as a -- with her advice and talents -- we have many people in the County who do
4 volunteer their time to serve on our boards and commissions, and there's quite a panoply
5 of them before us today, and I'll get started on them. We are going to be confirming today
6 County Executive appointments to the Alcohol and Other Drug Abuse Advisory Council
7 Paul Harrington, James Sutton, Roni White, A.J. Mitchell, and Eric Sterling. We're
8 confirming to the Citizens Review Panel for Children Stacy Wolff and Migdalia Rivera-
9 Goba; to the Commission on Child Care, Janine Bacquie; to the Commission on Common
10 Ownership Communities, Elizabeth Molloy; to the Commission on Juvenile Justice,
11 Christine Bartlett, Paul Vance, Susan Cruz, Jennifer Gauthier, Nancy Gannon Hornberger,
12 Mondie Kumbula-Fraser, Sharon Kelly, Mary Poulin, Maurice Sessoms, and Blaine Clarke;
13 to the Community Action Board, Latroy Powell; to the County-wide Recreation Advisory
14 Board, Sean Smith and Craig Snedeker; to the Dickerson Area Facilities Implementation
15 Group, Ed Violette and Heinz Bachmann; to the Down County Recreation Advisory Board,
16 Joy Shindler Rafey and John Pechilis; to the East County Recreation Advisory Board, La
17 Shane Crutchfield and Mark Pharaoh; to the Fire and Emergency Services Commission,
18 Paul Lilly, Joel Buzy, Raymond Sanchez, Michael McAdams, Ronald Ogens, Anita Powell,
19 and Chris James Zervas; to the Friendship Heights Transportation Management District
20 Advisory Committee, Robert Schwarzbart and Mallory Starr; to the Human Rights
21 Commission, Doug Ryan, Elizabeth "Babeth" Mulumba, and Sajjad "Saj" Durrani; to the
22 Mid-County Recreation Advisory Board, Arquilla Ridgell and Tchad Moore; to Mid-County
23 Citizens Advisory Board, Eileen Cahill, Marian Altman, Lisa Hoston, Randy McDonald,
24 Norman Goldstein, Mary Scholl, and Gamunu Wijetunge; to the Silver Spring Urban
25 District Advisory Committee, Marne Setton, Jennifer Nettles, Julie Statland, and Robert
26 Zeender; to the Revenue Authority, David Freishtat; to the Water Quality Advisory Group,
27 Lonnie Luther; and to the Workforce Investment Board, Dennis Fallen, Michael Sullivan,
28 Jr., Gerald Shapiro, Elwood Gray, Jr., David Rodich, Stephen Cain, and Steven
29 Silverman. So those are the individuals who are going to be serving on those boards and
30 commissions. We thank them for that, and I'll see if there are any other comments on the
31 Consent Calendar. Councilmember Elrich, did you want to comment on the abandonment
32 issue?

33
34 COUNCILMEMBER ELRICH:

35 Yeah. I just want to say that I do not support the abandonment of Reed Street at this time.
36 I think it's way premature, and I'm really concerned about what that is going to wind up
37 looking like, with the trail tracks and everything else and that -- I'm really concerned that --
38 I know this area pretty well, and I think we're going to create a mishmash of design and
39 innumerable conflicts between trail users, and there are already abundant people trying to
40 use that intersection as they cross it. So I'm not happy with the abandonment.

41

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1 COUNCIL PRESIDENT ANDREWS:

2 OK. If you're -- would you like to be recorded as supporting the Consent Calendar other
3 than that item?

4
5 COUNCILMEMBER ELRICH:

6 Yes.

7
8 COUNCIL PRESIDENT ANDREWS:

9 OK. We will do that. All right. Council Vice President Berliner.

10
11 COUNCIL VICE PRESIDENT BERLINER:

12 It's not often that I am on the other side of my good friend, but on this instance I am, and
13 as you observed, while you know this area pretty well, I know this area pretty well myself
14 and have been intimately involved with respect to this particular project. And as you may
15 recall, there was an initial proposal for this area that the community was, quite rightly,
16 berserk about, that would have turned this area into -- at one point it was characterized,
17 and I'm sure that there will be a few blanched faces here -- but it was characterized as
18 going to be "a Tokyo-like linear park." And we said, you know what? That's not what we
19 want. And we want to preserve what we perceive to be one of the last public commons
20 that is in front of the Landmark Theatre and that has been used for many years, and we
21 wanted it green and we wanted it lovely. And we submitted, as you may recall, a
22 architectural rendering of what we hoped that area could look like. And as a function of
23 that work and of community members expressing their concern, the developers withdrew
24 their proposal from Park and Planning, after about a three-hour discussion, and came
25 back with something that the community found to be more than acceptable, that will
26 enhance that area. And it was always contemplated that Reed Street would be part of the
27 bargain here, so -- and that the trail is going to be open. So we're going to have more
28 green than we do now. It is going to be as lovely as our community was able to make it in
29 conversations with the developers. I believe this is a good plan. It is an appropriate plan,
30 and it is one that we will be proud of in the future.

31
32 COUNCIL PRESIDENT ANDREWS:

33 OK. Thank you, Council Vice President Berliner. And I'll just note for the Boy Scouts that
34 are with us this morning that the Consent Calendar is used to consolidate items on the
35 agenda that are generally not controversial, that generally do not need to have an
36 individual discussion. Sometimes there are, but normally, the items that are on the
37 Consent Calendar are items that don't require a lot of discussion because there's broad
38 agreement. So it's used for that purpose. That doesn't mean the items on the Consent
39 Calendar aren't important. They are, but it's organized that way for administrative
40 purposes. OK. I don't see any other comments on the Consent Calendar, so we're ready
41 to vote on the Consent Calendar, then. All in favor -- with the exception I noted of

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1 Councilmember Elrich's view on the Reed Street abandonment -- please raise your hand.
2 And that would be Councilmember Elrich, Councilmember Floreen, myself, Council Vice
3 President Berliner, Councilmember Knapp, Councilmember Ervin, and Councilmember
4 Leventhal. The Consent Calendar is adopted 7-0, and the clerk will please note
5 Councilmember Elrich's opposition on the Reed Street abandonment. We're now going to
6 move on to Legislative Session, day number 31, and the introduction of bills. The first bill
7 for introduction is Expedited Bill 30-09, Personnel - Guaranteed Retirement Income Plan -
8 Retirement Savings Plan, sponsored by the Council President at the request of the
9 County Executive. We have a public hearing scheduled for July 15 at 1:30 P.M. And
10 without objection, the bill is introduced. Next is Bill 31-09, Administration - Consolidation of
11 Bills - One Subject, sponsored by myself and by Councilmember Elrich, as well. Public
12 hearing is scheduled for September 15 at 1:30 P.M. I'm just going to make some very brief
13 remarks about why I've introduced this legislation. For many years, the Council has had a
14 practice of limiting bills to one subject, and that, I think, serves us well. It means that there
15 is a clean vote on the bill, that there is -- accountability is enabled when you have a one-
16 subject bill, and it has been the practice for many years of the Council. In fact, in the
17 eighties, the Council passed legislation to require it for regulations, but there is not a law
18 that requires it. It's just been our practice, and I think it's a good practice. The General
19 Assembly has a single-subject rule, and so that is in place at the General Assembly level.
20 Congress does not have that requirement. So what this bill would do is simply say that
21 bills enacted by the County Council must be limited to one subject. And there's case law
22 as to how a subject is defined. It's basically a reasonable-person interpretation of what a
23 subject is. So it's a simple bill, but I think it's one that is important. It's a good government
24 practice, in my view. There was -- it's not an academic issue, either. Earlier this year, in
25 March, the County Executive did send over a bill for introduction that included three bills,
26 in effect, three subjects, and I divided it into its component parts, and the parts that
27 weren't duplicative were introduced so that the practice of having one-subject bills was
28 continued. So I think this is a measure that will establish in law what we already do in
29 practice, and for good reason, and I encourage my colleagues to give it fair consideration
30 and support. Councilmember Ervin, and then Councilmember Knapp.

31
32 COUNCILMEMBER ERVIN:

33 Thank you very much, Council President. I'd like to add my name as a co-sponsor.

34
35 COUNCIL PRESIDENT ANDREWS:

36 Thank you. So noted. We will do that. Councilmember Knapp.

37
38 COUNCILMEMBER KNAPP:

39 As we look at this, I was just curious that -- you kind of talked about an example of
40 something the Executive had sent over -- if there are any examples of what the Council
41 has done that didn't necessarily comply with this--I would just be curious for further

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1 edification. I saw it. I was intrigued but couldn't come up with anything that we'd done that
2 didn't necessarily already meet this standard, so I just was kind of curious.

3
4 COUNCIL PRESIDENT ANDREWS:

5 Yeah. No. I'm not aware that the Council has -- has not stuck to its own practice, although
6 we can do some research. But we did have -- this spring, we did receive a bill from the
7 Executive that had three subjects to it, three very different subjects. So we can check on
8 whether there's a history here at the Council, but if there is, it's very small. OK. Council
9 Vice President Berliner.

10
11 COUNCIL VICE PRESIDENT BERLINER:

12 Would you add my name as a co-sponsor, sir?

13
14 COUNCIL PRESIDENT ANDREWS:

15 I will. Thank you. So noted. All right. Again, the bill scheduled for public hearing on
16 September 15 at 1:30, and it is now introduced. We'll now move on to the next bill for
17 introduction, Expedited Bill 32-09, Taxation - Impact Fees - Inflation Adjustment,
18 Temporary Suspension, sponsored by Councilmember Elrich. A public hearing is
19 scheduled for September 15 at 1:30 P.M., and Councilmember Elrich has his light on, so,
20 Councilmember Elrich.

21
22 COUNCILMEMBER ELRICH:

23 Yeah. I wanted to introduce this at this time. The intention of the bill is to provide some
24 relief from the impact fees increases in this year because the actual costs this year which
25 would be experienced are probably down rather than up. At the same time, I didn't want to
26 make the money disappear altogether in the future. And so what the bill does is look
27 forward to 2011, and the 2011 calculation would include the years of increase we had, as
28 well as whatever happens this year and next year, which may well be decreasing years. I
29 didn't want the 2011 figure calculated on what might only be two negative years. At the
30 same time, while giving up this increase, I wanted to be sure that in 2011 we'll wind up
31 where we would have been anyway, given what might be happening in the economy. I've
32 been told that it has minimal effect, that there would not be a resultant impact on projects.
33 I guess we'll find out after the public hearing and get more information from staff, but I feel
34 that this will not force us to delay anything we plan on doing. It seems to be there's not
35 much happening. Judging by the report we got the other day, there's not much happening
36 anyway, so 7% less of nothing is pretty much close to nothing, and I felt pretty comfortable
37 doing it for this year.

38
39 COUNCIL PRESIDENT ANDREWS:

40 OK. Thank you, Councilmember Elrich. Councilmember Ervin and then Council Vice
41 President Berliner.

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1
2 COUNCILMEMBER ERVIN:

3 Thank you very much. This Council did not take action on something very similar to this
4 when the County Executive brought to us his -- his proposal for relief for the same sector,
5 and the reason why we didn't take action on that was because it became evident that in
6 doing so would have caused a big problem with our CIP. This is no different. In some
7 ways, this might be even worse. So I would like to know what projects will be impacted
8 and which building -- which builders are going to be in the line to receive any -- any of this
9 help. So I have a lot of questions about why we would do this. If it's not going to have any
10 impact at all, why would we pass an expedited bill? So I hope that staff will be working
11 closely with us on this because there are a lot of things that are sort of hanging out there. I
12 was told yesterday by staff that it could result in at least -- around a \$1.5 million -- have a
13 \$1.5 million impact on the current CIP, and that's going to be enough to push some
14 projects out of the way, so... Just curious about how we're going to proceed.

15
16 COUNCIL PRESIDENT ANDREWS:

17 OK. Well, there -- any questions, and certainly important to consider all the, you know,
18 different aspects of this. So I understand that the public hearing will be on September 15. I
19 think it will be before the MFP Committee sometime around that time or after that --
20 shortly, I imagine. So I encourage Councilmembers to raise questions, any questions they
21 have, with Mr. Drummer and Mr. Faden, and I know they'll look into it. OK. Council Vice
22 President Berliner.

23
24 COUNCIL VICE PRESIDENT BERLINER:

25 I just want to commend my colleague for bringing this matter to the Council's attention. It
26 is something that a number of us have been puzzling over -- how is it in a time when costs
27 are actually declining that we get to a place where we are increasing fees by 7%? So --
28 and I would say to my colleague, at least my understanding, and one of the reasons why I
29 am not cosponsoring at this point in time -- I, too, am interested in the public hearing and
30 hearing what people have to say about it, but by definition, my understanding is that this is
31 a small subset of what the County Executive had previously proposed. My understanding
32 is of what the County Executive had previously proposed was that we defer all impactee
33 tax collections, and in this instance, we are only talking about a small fraction of that --
34 that is, a -- the 7% increase that is otherwise scheduled. So by definition, my
35 understanding of this was that this was a modest way of saying to the development
36 community, at a time when costs are actually going down, the notion that we would
37 charge you more seems to be a little counterintuitive. So I do think it's important to have
38 this conversation and to understand its impacts to the extent to which it does in fact push
39 off other projects. We need to understand that, but we were also told by the County
40 Executive when he proposed his initial proposal that -- sort of as our colleague was
41 suggesting, that zero of zero is zero. That is, there is so little happening, to further

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1 discourage people from doing the work that we need to have done was something that
2 people were trying to grapple with. So that was my understanding of what the impetus
3 behind this was, and I think it is appropriate for us to have this conversation, and I am
4 appreciative that my colleague, if you will, of all colleagues has -- has taken this on as an
5 issue to bring to our attention.

6
7 COUNCIL PRESIDENT ANDREWS:

8 OK. Thank you, Council Vice President Berliner. All right. Without objection, the bill is
9 introduced. We're now going to move on to miscellaneous business, Item 4 on the agenda
10 -- action:

11 resolution to extend expiration date of Bill 19-07, Eating and Drinking Establishments -
12 Nutrition Labeling. And the action would be to extend the expiration date until August 31,
13 2010. Councilmember Leventhal.

14
15 COUNCILMEMBER LEVENTHAL:

16 Thank you, Mr. President. I introduced this bill a couple of years ago, and this was prior to
17 the beginning of the recession. It had -- it has been my sense that at a time when
18 businesses were struggling, as they have been, that perhaps we ought defer action on
19 this. Several other states, including the state of California, and other jurisdictions,
20 including New York City, have now adopted this mandate on restaurant menus. Anyone
21 who has visited New York City will see it at chain restaurants with 10 or 15 outlets or
22 more. I continue to support the proposal, although I will look forward to continued dialogue
23 with my colleagues about the timing. I had hoped, as we all had hoped, that we would
24 have pulled out of the recession by now. I continue to believe that this is good policy and
25 hope that the Council will be able to act on it at such time as we see fit to do so. And I
26 would call my colleagues' attention to the editorial that appeared in The Washington
27 "Post" on Saturday, essentially endorsing this proposal.

28
29 COUNCIL PRESIDENT ANDREWS:

30 OK. Thank you, Councilmember Leventhal. All right. I don't see any other comments. Oh, I
31 do. Councilmember Elrich.

32
33 COUNCILMEMBER ELRICH:

34 I think this is worth extending, and hopefully we -- I don't know if we need to wait for the
35 recession to end because I think most of the chains, like you pointed out, are providing
36 this information anyway, and the hamburger in New York is probably the same hamburger
37 served at a McDonald's in Montgomery County. So I don't know that it's really much of a
38 burden if this is becoming standardized practice anyway. And there was an article
39 recently, I think, in the paper talking about the federal government might actually be
40 moving in this direction. So I think this is a worthy bill, and we ought to look at
41 implementing it, probably on the sooner side of things, rather than the later side of things.

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1
2 COUNCIL PRESIDENT ANDREWS:

3 OK. Thank you, Councilmember Elrich. All right. I think we're ready to vote, then, on the
4 action -- on the resolution to extend the expiration date for Bill 19-07, Eating and Drinking
5 Establishments - Nutrition Labeling, until August 31, 2010.

6
7 CRYSTAL BROCKINGTON:

8 You need the motion.
9

10 COUNCIL PRESIDENT ANDREWS:

11 We need a motion? OK.
12

13 COUNCILMEMBER KNAPP:

14 So moved.
15

16 COUNCILMEMBER ELRICH:

17 Second.
18

19 COUNCIL PRESIDENT ANDREWS:

20 Moved by Councilmember Knapp. Seconded by Councilmember Elrich. All right. All those
21 in favor, please raise your hand. That's Councilmember Elrich, Councilmember Floreen,
22 myself, Councilmember Knapp, and Councilmember Leventhal. It is extended, 5-0. OK.
23 We're now going to have an update on County economic indicators and the County fiscal
24 situation for FY10-11, and we have representatives from the executive branch here joining
25 us for this discussion, as well as our Council staff director, Steve Farber, who always does
26 an outstanding job in presenting fiscal information to us. We're very well served by him,
27 and we appreciate all the expertise that is brought by the executive staff members, as
28 well. So first, I'd like everybody to introduce themselves for people watching or listening in.
29 Let's start to my right.
30

31 ALEX ESPINOSA:

32 Alex Espinosa. I'm the Operating Budget Coordinator.
33

34 JOE BEACH:

35 Joe Beach, Director, Office of Management and Budget.
36

37 STEPHEN FARBER:

38 Steve Farber.
39

40 JENNIFER BARRETT:

41 Jennifer Barrett, Director of Finance Department.

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1
2 DAVID PLATT:

3 David Platt, Economist, Department of Finance.
4

5 COUNCIL PRESIDENT ANDREWS:

6 Good morning, everybody. As I mentioned during our break -- our coffee with the County
7 Executive this morning, the MFP Committee -- Management and Fiscal Policy Committee
8 -- had a committee meeting yesterday where these issues were discussed, but the full
9 Council has not had the benefit yet of a discussion on it. The packets are before us on
10 Items 5 and 6, and I see that we have a presentation, so why don't we launch into the
11 presentation. But I will ask Mr. Farber if he has any opening comments he wants to make.
12

13 STEPHEN FARBER:

14 I think we can launch right into the presentation. Once again, David Platt has put together
15 an excellent presentation, an update of economic indicators, and we'll be hearing from Mr.
16 Beach and Mr. Espinosa and Miss Barrett shortly. Linda Price is handling the
17 presentation, and, David, why don't you take us through it?
18

19 COUNCIL PRESIDENT ANDREWS:

20 Just one thing. Council Vice President Berliner had a comment.
21

22 COUNCIL VICE PRESIDENT BERLINER:

23 I just want to commend our staff and the County Executive's staff for the quality of this
24 presentation. I do think it is very well done and important, and I'm grateful for your work.
25

26 COUNCIL PRESIDENT ANDREWS:

27 OK. Very good. And the presentation is in our packets that you're referring to. All right.
28 We'll turn it over to the presenters.
29

30 DAVID PLATT:

31 Good morning.
32

33 COUNCIL PRESIDENT ANDREWS:

34 Good morning.
35

36 DAVID PLATT:

37 The first slide -- I'll refer to the slide numbers. I think on your packet they refer to circle
38 numbers, so they're synonymous, they're the same, so we'll just keep it up. The first slide
39 shows you our -- the GDP outlook for the national economy and the second quarter
40 estimate, which will come out on Friday from the Bureau of Economic Analysis, shows a
41 economic contraction of about 1.6%. Papers have talked about 1.5% in decline. That

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1 would probably be the last decline, based on the forecast, that the survey from "The Wall
2 Street Journal" anticipates, but the recovery, as you can see by those bars, is very modest
3 over the next year. We're talking about 9/10 of a percent increase over this quarter that
4 we're in, from July to September, and maybe a little over 2%. And what that means is
5 basically from a national level, the employment is still going to be lagging. The
6 unemployment numbers are still going to be going down. I mean, the unemployment
7 numbers -- rate -- will be going up, but the unemployment will still be increasing at least --
8 they are still talking 10%, and some now have talked even a little higher, through 2010. So
9 even though we're starting to see a bit of a recovery, the anticipation through the third and
10 fourth quarter of this year -- the unemployment numbers are not going to show any
11 recovery in the near term. The next slide -- the next slide shows basically a confirmation, a
12 little bit of what Chairman Bernanke just said last week before the Senate and the House
13 in his testimony -- that the Federal Reserve are going to keep their rates at the zero to
14 .25% through the remainder of the year. And that's basically a reflection not only of their
15 policy, but also what the futures market anticipates. We don't see any improvement in the
16 rates or the growth in the rates probably until the second half of next year. And why I bring
17 this up is because our investment income is tied -- I would say correlated, our rates, the
18 return on investment, to the Fed fund's rate. It is not the same, but it's highly correlated
19 with that. We have a basically maybe a 40, 50 basis point difference. Right now, we're
20 running about 0.7% on our return, and I would think that that's probably reflective of what
21 the Fed has done in the short term of really dropping those rates. The next slide is just an
22 update on the mortgage situation. What we also look at is the spread between the 10-year
23 Treasury, which is kind of the bellwether. That's usually an indication of where the
24 mortgage rates and the 30-year -- these are the 30-year fixed rates. This comes out from
25 the Freddie Mac information -- database. And basically, prior to August of 2007, before we
26 started with the financial crisis, there was about -- I would say -- a spread of about 160
27 basis points between the 10-year and the mortgage rate, and that was fairly constant.
28 Since that time, it really has spiked up on the mortgages, up to somewhere around 220
29 average. The latest rate that we got from Freddie Mac on the 30-year is -- is about 5.2%,
30 which is up a little bit from the 5.14%. Now, the forecast that I alluded to earlier on "The
31 Wall Street Journal" was showing that the 10-year mortgage -- 10-year rate would
32 probably go up a little bit, too, so because of that correlation or that -- we could expect the
33 mortgage rates on the 30-year fixed to up a little bit more. I don't think they're going to hit
34 6 or 7%, but I think we probably could see some upward drift in a fixed-rate mortgage. The
35 good news recently has been the market. The market bottomed out on March 9, and for
36 the -- for the second quarter, since that bottom-out, we saw dramatic growth in both -- all -
37 - the four indices that we track, and they -- across the board:
38 the industrials, which is the Dow Jones; the S&P 500, which is your broader measure; the
39 NASDAQ, which is your technical companies, your technical -- high-tech companies; and
40 also the Russell 2000, which is your small companies. And we look for confirmation that
41 the market has basically stabilized -- at least the stock market has stabilized -- and

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1 showing some potential growth, and we probably can see that continue through the
2 remainder of the year. However, our numbers show that maybe at the end of the year we'll
3 see about a 15% growth in the S&P, but that's only going to pick up half of what they lost
4 in the fourth quarter of 2008. So even though we're going to see some growth, we're not
5 going to hit the high-water mark that we saw last fall or the -- but it's certainly an
6 improvement over the low-water mark that we hit in March. So that would be -- it's still an -
7 - if we have some positive news about the economy, that's probably where we're headed.
8 I just wanted to go through quickly these next two slides because this is somewhat dated
9 material. We haven't -- the Center for Regional Analysis is basically -- gives us an
10 indication of the regional economy based on their Coincident Index and their leading
11 indicator, and two things I want to point out about these indicators. The first one on the
12 Coincident is basically that Steve Fuller, who puts -- and his team, that puts these
13 indicators together, said in his last report that the fourth -- the first quarter of 2009 was the
14 worst quarter since 1991. But he expects that to improve now, because on the next slide
15 we show that the leading indicator shows at least it bottomed out, and he thinks it
16 probably hit, as they call it, a reflection point, which means that we're now probably going
17 to see some improvement in the near term on the local economy. So, having said that,
18 we're still having a problem. Even though the economy may improve, supposedly like the
19 national economy with the GDP, the unemployment -- the employment numbers are still
20 not going to be a good indicator. For example, the year -- the June numbers for the
21 Washington metropolitan area, we lost 42,000 jobs. This is the Washington region area
22 from June over June -- basically 42,000. All those jobs were in the private sector. There
23 was some improvement in the government -- specifically, the federal government added
24 jobs -- but certainly, the 42,000 reflects loss in the private sector. Turning to the --
25 Montgomery and Frederick counties, we lost, over that same period, June over June,
26 1,500 jobs. And you know the question yesterday was mentioned by Ms. Ervin and Ms.
27 Trachtenberg of a breakout of those sectors that we talked about -- or mentioned, and let
28 me just share with the Council those numbers. Again, the total was, down 1,500. A lot of
29 those came from the retail sector, as alluded to yesterday, Miss Ervin. 4,100 jobs were
30 lost between June and June. And this is basically Montgomery and Frederick counties.
31 And this is just the one month over one month. These are not seasonally adjusted
32 numbers, so there might be some seasonal factors going in here. But from the retail
33 sector, it shows a big hit on the retail side. The construction that you also mentioned -- if I
34 may, Mr. President, refer to Miss Ervin -- the construction, 2,500 jobs. Now, that is
35 basically a little -- we expected a little bit more, but again, that's still a significant hit.
36 Finance, because of the mortgage situation, down 2,100 jobs. Business -- business --
37 business services actually increased, about 7,900 jobs. So there is a balance here
38 between certain different sectors. The retail sector, the construction sector, the finance --
39 which was definitely hit by the mortgage situation and the housing situation -- have shown
40 dramatic, I would say, declines. The business sector, which is basically somewhat could
41 be tied to federal procurement and federal programs, was up about 7,900 jobs. This is,

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1 again, the June over June. I want to emphasize these are not seasonally adjusted
2 numbers, so there could be some variation from month to month. The government sector,
3 the feds picked up 1,700 jobs. So of the two sectors, we added jobs, but of five or six
4 sectors, we actually lost -- lost jobs.

5
6 COUNCIL PRESIDENT ANDREWS:

7 Mr. Platt, Councilmember Floreen has a quick question about this chart.

8
9 DAVID PLATT:

10 Yeah.

11
12 COUNCILMEMBER FLOREEN:

13 Is this information that you provided, Mr. Platt, the regional information or County --

14
15 DAVID PLATT:

16 No. This is Montgomery and Frederick counties.

17
18 COUNCILMEMBER FLOREEN:

19 This is Montgomery and Frederick -- the breakdown.

20
21 DAVID PLATT:

22 Right.

23
24 COUNCILMEMBER FLOREEN:

25 Although the construction and the retail versus business --

26
27 DAVID PLATT:

28 For both -- go ahead. I'm sorry.

29
30 COUNCILMEMBER FLOREEN:

31 OK. So it's -- that information that you just provided us was -- were the two counties.

32
33 DAVID PLATT:

34 The two counties. That's correct.

35
36 COUNCILMEMBER FLOREEN:

37 Thank you.

38
39 DAVID PLATT:

40 But let me add one more thing, if I may, Mr. President, Ms. Floreen. Of these -- of this
41 data series that we get from BLS, 83% of it is Montgomery County, so I would say that,

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1 you know, we could talk about which -- how much of the decline we talked about from
2 each of those different sectors has to do with it, but overall, I would say about 83% of the
3 numbers that we show here reflect Montgomery County, as a rule of thumb.

4
5 COUNCILMEMBER FLOREEN:

6 Could -- would you be kind enough to -- kind enough to provide us with that information,
7 just sort of written down?

8
9 DAVID PLATT:

10 The information we just talked about?

11
12 COUNCILMEMBER FLOREEN:

13 Yes.

14
15 DAVID PLATT:

16 Sure.

17
18 COUNCILMEMBER FLOREEN:

19 You have the chart, but it was a follow-up, I guess, from yesterday.

20
21 DAVID PLATT:

22 You want a chart that shows this breakdown? I'm sorry. I wasn't --

23
24 COUNCILMEMBER FLOREEN:

25 Sure. I'd just like to know the Montgomery County numbers, to the extent you -- or the
26 Montgomery/Frederick numbers.

27
28 DAVID PLATT:

29 We can look at that, based on some other series that we have, as well, and break it out.
30 Yes.

31
32 COUNCILMEMBER FLOREEN:

33 Thanks.

34
35 DAVID PLATT:

36 OK.

37
38 COUNCIL PRESIDENT ANDREWS:

39 Thank you.

40
41 DAVID PLATT:

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1 The Housing Index -- this shows, for the Washington region -- this is the Case-Shiller
2 Index -- showed a 16.9% decline April over April. This morning, the S&P and Case-Shiller
3 released the May over May number, and that was down only 14.9%. Now, what that
4 indicates is that we're now starting some sort of deceleration in the price declines in the
5 region. We saw a steady decline going from 13% down to 14% down to 15%, but now
6 we're seeing at least a modification or a deceleration in the price decline. And this, again,
7 is year over year, and these are not seasonally adjusted, so the 14.9% decline. So we
8 might start seeing a bottom of the price decline in the region for home prices. We'll
9 probably still see some declines, but not to the great -- not to the 16% decline I would
10 expect in the near term. We will also look at the futures market. If I may, just one more
11 comment. We also look at the Chicago Mercantile Exchange, which has a futures market
12 for each of the regions, and we track that. Now, since these are numbers that just came
13 out today, probably take a few days for us to go back and look at that to see what kind of
14 trend is going to be on a year over year basis on that. And -- and that's the other reason.
15 We always look at futures markets to give us an indication about the future. It's amazing
16 how that works, isn't it? On the Consumer Price Index, the May over May number -- or,
17 excuse me, the July over July number actually went down 3/10 of a percent, or .36%, to
18 be precise. Or 2/10 of a percent -- year over year, it's now running at 4/10 a percent
19 decline. This is the first decline since we've been collecting the series to see on a year
20 over year basis, and I'll talk to this a little bit later in the summary, but this -- when we look
21 at this index, we use that to come up with the Charter Limit calculation for the property tax,
22 and we were estimating about 3.4% for calendar year 2009, and right now, we're running
23 at a 4/10 of a percent increase, even though this shows a decrease year over year, but on
24 an average, we're only running at 4/10 of a percent increase. So that's a 3% -- 300 -- 3
25 percentage point difference between our assumption and this, and this can affect the
26 Charter Limit going into FY11.

27
28 JENNIFER BARRETT:

29 And we'll talk about that more when we get to Joe Beach's side of this discussion.

30
31 COUNCIL PRESIDENT ANDREWS:

32 OK.

33
34 DAVID PLATT:

35 Closer to home, on the Montgomery County specifically, we looked at another payroll
36 series -- not a payroll series, but an employment series which comes from the surveys,
37 and this is based on the labor force numbers. And this shows a continuing decline in the
38 number of people in the resident employment numbers. That declined nearly 19,000.
39 Again, this is June over June numbers. So -- actually, we have May over May, but the
40 decline in June over June was 15,000. Excuse me. This shows May over May. Apologize.
41 The June over June was 15,000 decline. If we go to the next slide, please, which is even



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1 more profound, we show a 5.2% unemployment rate as of May. Well, the numbers that
2 came out last Friday showed unemployment rate for the County is 5.7%. That number
3 was revised upward to 5.3%, so we're going up to nearly 6%, probably, by the end of the
4 year, in my opinion. That's my opinion, but based on where the state is headed and where
5 the national numbers are going, I wouldn't be surprised if we don't hit 6% by the end of the
6 year. Now, again, these are not seasonally adjusted, so we're going to see some
7 variation, maybe some pullback a little bit, but I wouldn't be surprised. Not to say that it will
8 happen, but I wouldn't be surprised.

9
10 JENNIFER BARRETT:

11 Just to pause on that. That unemployment rate -- again, we track a little bit the national
12 expectation also is for it to be -- to still increase a little bit, and it's pretty broadly known
13 that the unemployment -- or employment lags recovery. So this is one of the main
14 indicators we'll be watching, is all these employment numbers, because that affects so
15 much our income tax revenue but is one of the last things to come back. So we may --
16 we're -- we may be seeing these changes in the housing market, in the stock market, but
17 still be experiencing shortfalls in the revenue stream for income tax later than -- than the
18 rest of the recovery. Now, some of that was assumed in the projections that the FY10
19 budget was built on for '11 and beyond, and -- but what we'll be doing is, David will be
20 reviewing the data and updating those projections as we go into the fall to try to determine
21 if any changes are warranted, if there's a slower than expected recovery, specifically.

22
23 STEPHEN FARBER:

24 One other point about the 5.7% unemployment rate for June in the County -- as I noted in
25 my packet, up until January of this year, we had never achieved even a 4%
26 unemployment rate, much less a 5. Well, in the 20 years that this data series has been
27 kept, no. In fact, remarkably, in the recession of the early nineties and the early part of this
28 decade, we stayed in the 3s. We never even got to 4. I think that shows the magnitude of
29 the problem now. As David said, it's likely to go even higher. This translates, 5.7%, into
30 about 30,000 unemployed persons in Montgomery County, and if you add into that the
31 number of discouraged and underemployed workers, you're probably talking more like
32 about 50,000. So there's a lot of hurt out there.

33
34 JENNIFER BARRETT:

35 And I think we talked about this a little bit this spring, but those unemployed people are
36 coming to the County for services, particularly in the HHS area and housing. So -- and this
37 is feeding into foreclosure rate, which -- you know, we're doing better than elsewhere in
38 the state, but these are the things that are affecting us on the service side at the same
39 time they're affecting us on the revenue side. And also, just for comparison, the state of
40 Maryland, their recently announced one was 7.5%, non-seasonally-adjusted, for June,

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1 which was up from 7.1% in May. So they're -- they're experiencing the climb, also, that we
2 just saw.

3
4 DAVID PLATT:

5 Turning to the real estate one.

6
7 COUNCIL PRESIDENT ANDREWS:

8 What is it -- we need to -- let's keep questions brief at this point, until the presentation is
9 over.

10
11 COUNCILMEMBER ELRICH:

12 I just want to know how -- what the relationship was to your earlier slide about job loss in
13 this and unemployment, because they seem to be two very different numbers. I mean, you
14 -- you have job loss in some sectors and increase in another sector, but unemployment
15 seems to be functioning almost independent of those two things, so what is going on?

16
17 DAVID PLATT:

18 On the unemployment number, that's based on a survey of the households, basically
19 saying, are you employed or unemployed? They don't get into the details of what
20 particular sector you're in, so they're basically kind of two different sets of numbers. The
21 connection would be -- is the overall drop in a payroll series or as a survey of
22 establishments, as opposed to a survey of households, which is what the unemployment
23 rate is based. Establishments in Montgomery County may be hiring people, but the people
24 in Montgomery County may be working out of the County or employed somewhere else.
25 They're the ones that may not be looking -- have the jobs. Second of all, they -- the people
26 -- once -- there's also a question of coming into the labor force. We look at -- that's why
27 they call it labor force data. People may be encouraged or feel they need to get into the
28 labor force, and if there's not a job there for them to fill that thing -- and I think you talked
29 about the structural employment a couple of months ago, that people who are looking for
30 a job can't get the job. Well, that shows up at the labor force number, which is -- which is
31 calculated as an unemployment number in this -- in this series. It won't show up in the
32 payroll series data that we just talked about earlier. So there is a disconnect between
33 who's serving who, and are we talking about the establishment or are we talking about the
34 household, Mr. Elrich.

35
36 COUNCILMEMBER ERVIN:

37 Is there -- is there data that matches unemployment to the kind of unemployment, or what
38 jobs -- you know, what jobs are people looking for or are qualified for that they can't get?

39
40 DAVID PLATT:



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1 If that is done, I would imagine it's done at the federal level, at the Department of Labor,
2 and probably their Monthly Labor Review or things of that nature, those publications, may
3 get into those things. They had a report last month on discouraged workers, as a matter of
4 fact. That may translate at the national level. Unfortunately, I don't know if our Department
5 of Labor, Licensing and Regulation do those studies. We could follow up and see if they
6 do something at the state level. Even if they did it at the state level, I don't know how far
7 down into the county level they would go with something like that. But yes, that's...

8
9 COUNCILMEMBER ERVIN:

10 OK. Thanks.

11
12 DAVID PLATT:

13 You're welcome. Turning to the real estate market, I believe the last time we briefed the
14 Council, we were looking at a decline in the number of sales for the homes. Well, March,
15 April, May, and June turned out to be fairly good months. I mean, we were adding -- the
16 difference between that period of 2009 and 2008 was a difference of 100 units per -- an
17 increase of sales of 100 units per month. So that showed, at the end of the Fiscal Year,
18 that our number of sales were up 2.9%. We were actually looking for another decline. So I
19 think that there's -- there may be this turnaround -- and I'll show you a slide later that
20 indicates that we may have hit the bottom in terms of the housing and the real estate
21 market. Again, it's pure -- my perspective, but I think that -- I always want to caveat these
22 things. Ha ha! But I think that we probably are starting to see a little bit of a turnaround,
23 specifically in sales. Prices -- this is basically on a Fiscal Year basis, that our prices,
24 again, declined -- again, 15.8%, and that kind of mirrors what we saw for the Case-Shiller
25 at the regional level. Now, the data that came out this morning, with only a 14% decline --
26 again, we might see some deceleration in this price decline. So, having said that, we still
27 have a ways to go on the price situation, but the sales themselves may start picking up.
28 There's a tradeoff now when we talk about the transfer recordation tax between the
29 average sales price and the sales itself, so we'll probably see some -- still some stress on
30 the recordation and transfer tax until we see some -- both improvement in the price and
31 home sales over the next couple periods. This is -- this chart shows you the inventory, and
32 this was a little bit of a surprise to me, in fact. I'll be honest with you. The -- we track the
33 listings to sales on a monthly basis, and it's down to a six-month ratio, which means
34 there's a six-month supply of homes, and that's down from 11-month supply that we saw
35 in January. That's a pretty good drop, and now, it could be that -- we always speculated
36 that people were taking their listings off the market, but I think, with the sales number that
37 came out the last three, four months, we're starting to see a pickup in the sales. With the
38 credit that has been offered by the federal government for new-home buyers and things of
39 that nature, and the programs, I -- again, I'm going to say it, I think we probably hit a
40 bottom in the housing market.

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1 COUNCIL PRESIDENT ANDREWS:

2 OK.

3
4 DAVID PLATT:

5 In terms of sales. The construction -- we're seeing a lot of continuing stress in the
6 construction. In the past, we saw a tradeoff between residential and nonresidential
7 construction -- when the residential construction was going down, both in terms of projects
8 and units being started and the value, we saw at least the commercial side offsetting that.
9 Well, these next two slides show that both the commercial side and nonresidential side --
10 and the residential side -- excuse me; I'll slow down -- and the residential side are both
11 showing declines, at least through the Fiscal Year '09. And the bottom line of all of this is
12 that we look at the starts, to a degree, because that's basically starting the construction
13 and work, and those values we look at, the trend line, to see what the added new
14 construction would be to the property tax base. The question brought up yesterday by
15 Miss Trachtenberg and Miss Ervin was on the permit side, the fact that -- I think it was in
16 reference to the Howard County report that there was a 24, 25% decline in permits. For
17 our Fiscal Year 2009, we show about a 25% decline in permits -- even more from the
18 residential side, and that's on the number of units that we get from the Bureau of the
19 Census, and also from the commercial side -- of about 14% decline on the commercial
20 side that we got from Department of Permitting Services. So our decline in the permits is
21 probably comparable to what Howard County saw in their report of about 25% decline.
22 And again, this is just a precursor to the starts, so we then look at the permits, and then
23 we go to starts, and then we look at the new construction, and then the property tax base.
24 It shows that we have a ways to go on construction and adding new properties to our
25 base. If I go to the -- next slide, please. That's fine. The vacancy rate is another indicator
26 of the construction. Because the construction, specifically on the commercial side, has
27 been down, the vacancy rate has been steadily increasing from a low of about 5.7%
28 during the second quarter 2006 almost to 11% during the first quarter this year. The latest
29 data that we got, with our thanks, from Park and Planning, was showing that the Class A
30 property increased to over 12% vacancy rate. So we're probably going to see some more
31 stress on at least the commercial building sector for the next year to get the vacancy rate
32 down to at least a normal level, which could be around 5 or 6%, which is again -- this may
33 be an historical average on the low side. So in conclusion, the three or four areas that we
34 focused mainly on were the employment situation -- and again, that's going to be a drag
35 on both the income tax revenues and our recovery a little bit, because we've now hit 5.7%
36 in the unemployment rate, and both indicators, both in payroll employment and resident
37 employment, show a decline -- specifically on the resident employment side. I think that
38 that will probably have a little bit of a drag on our income tax revenues in '10 and even
39 probably in '11 -- again, my personal opinion. We're on target with the payroll numbers. It's
40 the resident employment numbers that are problematic to us, to see that kind of a decline.
41 But again, it's the residents who pay the income taxes, not the people who work here and

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1 may live somewhere else. On the construction side, as I talked to you earlier about, the
2 resident/nonresident -- \$750 million of new value of construction is the lowest we've seen
3 in a long time, both commercial and -- and residential. We've always seen about a 1.5
4 billion, a tradeoff between the two. As I said the last time, I believe, when the resident
5 goes down, the commercial goes up, and now we're seeing both, and that's 750, and
6 that's going to have an impact on our new construction in our property tax base in FY11.
7 Again, I talked about the inflation rate and the effect it will have on the Charter Limit in
8 FY11. And housing prices -- again, we're probably going to be a little optimistic on that,
9 but not dramatically optimistic, that things will improve over the next half a year. So that is
10 it -- my presentation. Thank you.

11
12 COUNCIL PRESIDENT ANDREWS:

13 Thank you for that very thorough presentation. We are going to have an update on the
14 fiscal situation in just a few minutes, which obviously is related to this presentation. I'm
15 going to first turn -- before I turn to colleagues who aren't on the MFP Committee, I'm
16 going to turn to the members of the MFP Committee, who heard some of this -- or much of
17 this yesterday and may want to give us the benefit of their thinking on this. So I'll turn to
18 the chair of the MFP Committee and then see if Councilmember Ervin has any comments
19 she would like to add, and then I'll turn to nonmembers of the committee, beginning with
20 Councilmember Knapp.

21
22 COUNCILMEMBER TRACHTENBERG:

23 OK. Thank you, President Andrews. And I want to start my remarks off by thanking the
24 fiscal team from the Executive branch for your hard work on this presentation, and our
25 excellent representation. I am looking forward to the bond rating trip that the Council
26 President and I will be taking in October, but we clearly have our work cut out for us, no
27 doubt. I would share with my colleagues that we did have this presentation yesterday
28 afternoon within the committee, and clearly, the 5.7% number that was provided to us in
29 terms of County unemployment was really pretty amazing, because we've not seen, as
30 stated earlier, a number as high as that. I was particularly interested in some of what was
31 provided to us around the inflation rate, and I apologize for the fact that I just came to the
32 dais again, having been outside the building on a Council-related task, but I wonder if we
33 could talk a little bit about the index and that \$40 million number that's been bandied
34 about.

35
36 JENNIFER BARRETT:

37 We can now. It's part of our -- also, our fiscal update, which we haven't gotten to yet.

38
39 COUNCILMEMBER TRACHTENBERG:

40 OK.
41

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1 JENNIFER BARRETT:

2 But you're right. The Charter Limit is dependent on inflation, and it does affect revenues,
3 potentially, so it's something we'll be monitoring closely.

4
5 COUNCILMEMBER TRACHTENBERG:

6 Yeah, and I think all of these things combined clearly speak to an enormous challenge,
7 and that unemployment number very much has direct bearing, I think, on housing stability,
8 and I suspect we're going to see more and more of an impact over the next few months,
9 but I just wanted to take a moment, really, primarily to thank all of you for your hard work
10 on this -- and Mr. Farber, as well. I know we'll be continuing the conversation on the
11 County's situation, but I do thank you for the information. We will be getting an additional
12 update on the same type of parameters in -- I believe in autumn or October, November. Is
13 that right, David?

14
15 STEPHEN FARBER:

16 It's going to be in September.

17
18 COUNCILMEMBER TRACHTENBERG:

19 It is the end of September?

20
21 STEPHEN FARBER:

22 We're going to catch up again then.

23
24 COUNCILMEMBER TRACHTENBERG:

25 OK. So, you know, we've got plenty of time, I think, to mull over what's been provided to
26 us today, and I would encourage my colleagues to actually interact with some of the
27 committee members of the MFP Committee during the summer and early September, so
28 that way, when we do have another presentation, we're able to perhaps start thinking
29 about strategy.

30
31 COUNCIL PRESIDENT ANDREWS:

32 OK. Thank you, Chair Trachtenberg. Councilmember Ervin, do you have any comments
33 you wanted to add at this time? No? OK. All right. I'll turn to Councilmember Knapp.

34
35 COUNCILMEMBER KNAPP:

36 Thank you, Mr. President. Thank you for the overview, Mr. Platt. As always, very
37 insightful. You touched on a couple of issues, I know, so I'm kind of curious. Much of what
38 we look at is data that we collect from lots of places that you kind of go through and you
39 distill and you kind of figure out where we sit relative to those other trends that are out
40 there. Have you begun, or is there a way for us to start looking at the -- the impact of the
41 population trends that we're beginning to see out there, in particular -- I guess... Rephrase

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1 a little bit. We're looking right now at a situation where you're saying we've hit the bottom.
2 Rightly or wrongly, many people -- and with all the various caveats and -- I know, with the
3 asterisks -- and we're hope -- I mean, I think everyone is hopeful that we're trying to -- that
4 we're -- at least have leveled out, that we've stabilized at some point. I think there's an
5 expectation on the part of many that once you've leveled out, you start this climb back to
6 something, and I think in the minds of many, where we were is a place you might get back
7 to. I think -- or at least hopefully. I think the reality is, you're not going to get back to
8 that...maybe ever. But I guess the question is, a lot of what we'll -- has generally pulled us
9 out of recessions in the past has been increasing population -- as a result of increasing
10 population, increasing spending. But if you look right now, I think, at the trends that are out
11 there, the Baby Boom generation at the point that they are, you're now going to see
12 significant numbers of people leaving the workforce who are generally in spend mode,
13 and they're not going to be in spend mode anymore, and you don't necessarily have the
14 people coming in behind in spending mode, and so a lot of what we've had typically in the
15 past doesn't currently exist, which for us means a lot of things, because potentially you
16 end up with additional housing supply, because you have a lot of folks who are in those
17 Baby Boom years who are not necessarily going to keep a big house and maybe try to
18 downsize. And you also don't necessarily have the increase in income tax that you would
19 have because they're stepping out, and you don't necessarily have the base coming back
20 to fill that in. Do we have a capacity to begin kind of looking at those types of population
21 trends so that we have a sense of, not next year or the year after, but in five, six, seven,
22 eight, nine years, to see what the impact of those shifts will be as we start to kind of do
23 our projections?

24
25 DAVID PLATT:

26 What you're looking at, I think, is like almost what we call Cohort Analysis. We look at
27 different age groups and what's the trend in the age groups. I'm going to put it in my
28 vernacular. We in Finance somewhat look at those -- not in as great detail as -- I think a
29 group of people, such as the Planning folks, can do that in terms of where is the shift
30 coming from. Like you -- like you mentioned, Mr. Knapp, the aging population, the Baby
31 Boomers, are not going to retire. I mean, if we read all the reports that no one wants to
32 retire. They're eligible to retire. They want to keep working, for a number of reasons,
33 whether it be the health benefits, et cetera, et cetera, et cetera.

34
35 COUNCILMEMBER KNAPP:

36 Now they may have to. Yeah.

37
38 DAVID PLATT:

39 Now, whether they move out of their current home and go into -- and downsize, that's a
40 behavioral question that -- probably only surveys can answer that question. Are you likely
41 to leave your home and go from a four bedroom, three bedroom, into a downsize. That



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1 would be a behavioral question, which would have implications, certainly, on size of
2 homes being built to accommodate that cohort that I just referred to. The second group
3 that we talk about is the younger folks that are coming into the labor force -- what kind of
4 infrastructure do they require? They're certainly not going to look at the bigger homes with
5 the four bedrooms. They're going to look at more of the condominiums, maybe the
6 townhomes and so forth. So again, it gets back to your point, is what kind of infrastructure
7 requirements are going to be, based on each of those different cohorts that are going to
8 be necessary, particularly in the residential, on the homebuilding side. Also is the
9 immigration issue. The big draw into the population has not been so internal as much as
10 people from outside coming in because of the job growth that we had. Now, the job growth
11 may temper that growth in the population in the near term, but when we were -- when the
12 employment situation was growing -- particularly in this area, and I still think there's still a
13 potential for growth, as I mentioned, in the business service sector, that we might see
14 some still immigration numbers coming in. So those are the three cohorts that no, we don't
15 look at in any great detail, but certainly we should pursue that to see what are the
16 demands on the infrastructure, what will be the demands on the revenues that we look in -
17 - building, buying homes, building homes, and so forth. I think that's -- that's the kind of
18 thing. Almost like a systematic analysis of -- I think I referred to about a year ago. It
19 started with the population or the employment numbers -- how are they drawing in the
20 population growth, and as to the population growth, is that internal growth, or is that
21 coming in from immigration, kind of thing? There are a number of factors going in, but it's -
22 -

23
24 COUNCILMEMBER KNAPP:

25 And when you say we ought to look at that, how would you recommend us beginning to
26 look at that? Anybody.

27
28 JENNIFER BARRETT:

29 I would suggest -- you can do -- you can do this kind of analysis looking out, but it's... it's
30 not as reliable as the kind of revenue projecting that David engages in, you know, for all of
31 us on an annual basis based on these economic indicators. But it's useful, I think, to look
32 at the things you're talking about. I think what we need to begin is a discussion about how
33 we position ourselves. In other words, we may not be able to predict with a high degree of
34 accuracy what that trend would be. But what we can do is position ourselves, have the
35 structures, have the fiscal management tools and practices and policies that we've begun
36 discussing in place that allows us to react appropriately or be prepared for the
37 unexpected. And one thing that you'll hear us continue to talk about is things like reserves,
38 PAYGO, et cetera -- things that we can go to in times of stress -- and how we deal with
39 either extraordinary revenues or one-time revenues. That's why so many jurisdictions
40 have specific policies on those that we -- we, too, have a policy, but we haven't practiced
41 it, and that's something I think we need to discuss in much more detail.

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1
2 COUNCILMEMBER KNAPP:

3 Well, and I think, you know, we're going to be looking at a lot of land use activities during
4 the fall, and we tend to have a conversation of land use as though it's somehow isolated
5 and doesn't necessarily -- we don't necessarily have the economic discussion associated
6 with it. I've had a lot of conversations with folks out in the development world as they're
7 trying to figure out where -- what -- what does their market look like, and if you look at, as
8 you kind of alluded to, what does new job growth begin to look like? What is existing
9 capacity in our offices -- our commercial buildings that are out there right now? What are
10 going to be the needs that they're going to start to forecast? How much more of certain
11 things do we need, which then gets back to, what is the underlying commercial value that
12 -- as you said, we're up -- usually up in about the 1.5 billion range. You know, what do
13 those things begin to look like, because then they have implications for what we're doing
14 in a land use perspective and also what it is we're trying to encourage from a fiscal
15 perspective, both how much do we think we -- our reserves need to look like, because
16 unless we make the right decisions, we could end up in a completely different place than
17 where we have been in the past.

18
19 JENNIFER BARRETT:

20 They do, and one example I can think of -- it's not land use. This more has to do with
21 technology. But thank goodness we have a -- David, correct me if I'm misstating anything -
22 - a tax on cellular phone usage, because there's a trend away from the land lines to the
23 cell phones. So that's an example of a trend out there, kind of beyond our control but in
24 the genre that you're talking about.

25
26 COUNCILMEMBER KNAPP:

27 And I wish we did that for the -- for the broader reason.

28
29 JENNIFER BARRETT:

30 Good job.

31
32 COUNCILMEMBER KNAPP:

33 I know the decisions why it was made when it was made, and it wasn't necessarily with
34 the prescient foresight in this that perhaps we'd all like to believe that it was, but it worked.

35
36 JENNIFER BARRETT:

37 So that's kind of a unique situation, yet that's the kind of thing that you can identify -- when
38 you have this kind of discussion, what actions over here on the revenue-sustainability side
39 of things should we take to position ourselves? This isn't going to be an accurate, change
40 the forecast six years out type of discussion, but there can be some useful outcomes. Fuel
41 energy, changes in commuting patterns -- I mean, obviously all these things are a very

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1 interesting discussion, and we may have some specific action items come out of it, so it's
2 a useful discussion.

3
4 COUNCILMEMBER KNAPP:

5 No, and that's -- so I would be very interested to see how we would begin to -- again,
6 you're right. It's not something that changes two, three years, but it's going to have real
7 implications for us probably within the decade, and... depending upon how this recession
8 comes back or how we come -- you know, what our next basis that we're working from, I
9 think it's important for us to start that dialogue and would love to engage, not necessarily
10 here, but how we start that process and how we get that ball rolling. Because I think it is
11 going to be -- if anything, I was listening to NPR on the way in this morning. There were
12 three different, completely unrelated stories, and yet each one of them went back to how
13 whatever market was being discussed, it's going to look like a completely different market
14 within the next three to four years. And these markets had nothing to do with each other
15 whatsoever, and so the theme is, it's going to look different soon, and how do we position
16 ourselves to make sure that we can react in the most appropriate way possible?

17
18 COUNCIL PRESIDENT ANDREWS:

19 Thank you, Councilmember Knapp. We have three more Councilmembers who have
20 questions, and then we're going to have the fiscal presentation by OMB. Councilmember
21 Floreen.

22
23 COUNCILMEMBER FLOREEN:

24 Thank you. And I am not sure if this is for you, David, or for Joe. It has to do with the -- the
25 -- the impact of this information on the County's assessable base. Where do you see that
26 number going? I think we assume certain things about its increase in our budgetary
27 projections, which we're going to get to next, but with the impact on new construction and
28 existing assessments, have you gotten to the point where you've reached any conclusions
29 or thoughts about that?

30
31 DAVID PLATT:

32 Not necessarily conclusions, but directions. Let me put it in three ways.

33
34 COUNCILMEMBER FLOREEN:

35 Fair enough.

36
37 DAVID PLATT:

38 Three ways. We talked about the data that we showed -- saw on construction starts,
39 which shows the new construction coming into the base, and we saw -- we can see a
40 pullback on that, based on our -- probably a previous assumption. I mean, historically, we
41 ran about 1.5 billion or 1.3 billion per year in new construction added to the base. We're

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1 not going to see that probably by -- in a couple of years because by the time that new
2 construction comes online, specifically the commercial side, it'll be about another year
3 before it really gets assessed. The other point is the -- on the home prices. We all know
4 that every home is reassessed every three years, so we look at a three-year cycle in the
5 prices. That would be a strong correlation, in my opinion -- I like to use that word a lot --
6 between what the reassessment rate is for the residential properties that currently exist
7 and what that reassessment rate. Last year, that was about -- we saw about a -- if I
8 remember, about a 16-18% drop in the reassessment rate for the residential, and that
9 tracked the prices over -- that happened over three years. As it showed, the chart on the
10 prices, the 15 percents and steadily declined, and if we still see that decline, even though
11 in moderation, we're probably going to see another decline again -- may see another
12 decline -- I want to be very careful here -- in the next reassessment for the next group, I
13 think it's Group 1, and maybe the Group 2. So from the existing base, we'll start seeing
14 the numbers come down on the cash value. Now, keep in mind, we still have that
15 homestead tax credit sitting out there, and that will probably be eroded over the next year
16 or two. So we'll still have some plus up on the taxable assessments, but on the cash
17 assessment of market value, we'll see a decline. So there's going to be a little bit of
18 disconnect to the taxpayers overseeing it, and I just want to make that point. Third one is
19 the business. We have the personal property, and we have three categories -- we have
20 the public utility, we have the corporation, and the individual. We've seen a decline in the
21 latter two, on the corporate and the personal -- personal -- personal businesses, personal
22 property. If we see businesses not recovering, we'll probably see a further decline in those
23 two categories. Public utilities are fairly stable because we're talking about the telephone,
24 electric utilities, and so forth. So those are the three categories, Miss Floreen, Mr.
25 President, that we're going to track and see where we're going to be over the next year,
26 and there are probably going to be some slight changes. And I say slight changes, but
27 right now, we don't see anything significant, because we already incorporated the housing
28 prices -- still the decline. We still have the businesses not to recover. The only element
29 that is here was the first one, was the new construction. So those are the three elements,
30 based on the data that we provided you this morning, that we take a look at. Is that --

31
32 COUNCILMEMBER FLOREEN:

33 Well, yeah. I was looking at your summary page that refers to construction and the line
34 about "additional property assessments from new construction could be at their lowest
35 level..."

36
37 DAVID PLATT:

38 Right.

39
40 COUNCILMEMBER FLOREEN:

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1 "...by Fiscal '11 in over 10 years." And I know -- that's a combination of both residential
2 and commercial, right?

3
4 DAVID PLATT:

5 That is correct. That is correct.

6
7 COUNCILMEMBER FLOREEN:

8 So -- and that's factored into your -- is that sort of balanced out by the Homestead Credit?

9
10 DAVID PLATT:

11 They don't get the Homestead Credit right away.

12
13 COUNCILMEMBER FLOREEN:

14 Well, I know.

15
16 DAVID PLATT:

17 It would be balanced out.

18
19 COUNCILMEMBER FLOREEN:

20 But it terms of the fact that other people's assessments have been capped, it will increase
21 a little bit over time.

22
23 DAVID PLATT:

24 That's correct.

25
26 COUNCILMEMBER FLOREEN:

27 OK. Thank you.

28
29 COUNCIL PRESIDENT ANDREWS:

30 Thank you, Councilmember Floreen. Councilmember Elrich.

31
32 COUNCILMEMBER ELRICH:

33 Have you seen any -- sorry about that. Have you seen any sign yet of, or any numbers yet
34 on commercial reassessments? I mean, how many properties have come in, and is there
35 any kind of significant movement in commercial reassessments, where people are asking
36 to reduce their assessments based on vacancy rates or declining rents yet?

37
38 DAVID PLATT:

39 I have not handled the appeals process. I think that would -- we'll have to get -- you know,
40 I -- that one I can't...

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1 JENNIFER BARRETT:

2 I'm sorry Rob couldn't be with us today.

4 DAVID PLATT:

5 Yeah. He would be the one to --

7 COUNCILMEMBER ELRICH:

8 I think that would be I think important to know, because in the mid- nineties, that was a big
9 part of one of the tax crashes, was a very rapid loss in that assessable base when they
10 came in for reassessments en masse.

12 JENNIFER BARRETT:

13 You are correct that there's a lot of activity in that area, but we don't have specific
14 statistics to share with you right now.

16 COUNCILMEMBER ELRICH:

17 And I guess, you know, the long-term thinking, that if it's true that people are going to be
18 using, for example, townhouses more for family residences than single-family homes, that
19 has, I think, implications because it will increase the -- the service demands that those
20 houses generate, at the same time as it's going to reduce the taxes that those houses
21 throw off. I mean, if we have more activity in townhouses with families, a lot of our
22 projections on, you know, school enrollment and, you know, impact fees have to go on the
23 assumption that they generate fewer students, and if in fact they're going to start
24 generating more students, then we're going to be doubly hit by the additional need to
25 service more students and the fact that the property they're coming from doesn't generate
26 the revenues that it would if it was a single-family house. And I think we've got to be
27 thinking about that, because it's -- we kind of stand to get hit both ways, if that's the case.
28 Again, I guess those are my immediate concerns. The other -- the third thing that strikes
29 me is just if there's any movement toward teleworking, that will reduce demand for office
30 space, and a lot of businesses are looking at ways of, you know, keeping employees
31 home so they have to lease less space, and if you can carry on the same business with
32 less leased space, then you could fit more businesses into the existing footprint, which is
33 going to reduce the demand for construction. I mean, I -- you know, when you talk about
34 the changing and emerging markets and the shape of the economy in a 5- to 10-year
35 timeframe, there are a lot of things that could reshape this economy that reduce our
36 traditional sources of revenue without at all reducing the demands that are put on County
37 government for services.

39 COUNCIL PRESIDENT ANDREWS:

40 OK. So we'll look forward to getting some more detail from the -- on the question that Mr.
41 Elrich had about the commercial assessment. All right. Councilmember Ervin, and then

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1 Councilmember Trachtenberg is going to make some opening comments about the fiscal
2 update, and we'll have the presentation from OMB. Councilmember Ervin.

3
4 COUNCILMEMBER ERVIN:

5 I think this is a really interesting conversation, and, Mr. Platt, you brought up some things
6 that I wanted to follow up on, and that is, earlier this morning, when we met with the
7 County Executive, he talked about the 2010 census. And it appears to me that we have a
8 real opportunity, with this census coming up, because what we're facing in the County --
9 we've never been here before. You talked about the immigration sort of flattening out.
10 What we're seeing around the district that I represent and Langley Park and Wheaton,
11 where there were a lot of new immigrants, many of whom got caught up in the housing
12 market and bought homes with predatory loans, and whenever -- every time the loans
13 reset, more and more of those people left those homes, and either they're empty right now
14 and a lot of those folks either moving back to their countries of origin or they're moving
15 back down into Langley Park and across the border into Prince George's County, right in
16 the International Corridor area. We are really in a place we've never been before, and so I
17 think we have some opportunities, and I think that -- that -- that you all are bringing some
18 very interesting insights into what we should be thinking about as we move forward. And I
19 think Councilmember Elrich brought up some very good points, too, about townhomes and
20 how people are retooling. Schools are overcrowded now, in a large degree because
21 people who could afford to send their children to private schools prior to the -- to the
22 economic downturn are now -- those kids are coming back into public schools. And so
23 people are actually rethinking and retooling. People who once had the -- the money and
24 were able to afford for private schools are -- we have a premier school system, so they're
25 paying taxes for it anyway, so they're coming back. So I think it's really very interesting in
26 terms of how we have to rethink and retool a lot of what we're doing and the assumptions
27 that we're making about our County and who lives here and how people think and work in
28 Montgomery County.

29
30 COUNCIL PRESIDENT ANDREWS:

31 Thank you, Councilmember Ervin. OK. I'm going to now turn to the chair of the MFP
32 Committee, Councilmember Trachtenberg, for some opening comments and maybe a
33 couple questions that she has to have focused on, and then we'll have the presentation
34 from our panelists on the fiscal update.

35
36 COUNCILMEMBER TRACHTENBERG:

37 I'll be very brief. What I would ask too is that, as we prepare for the discussion in
38 September, that we actually define -- have more information, David, available about some
39 of the commercial issues that were raised by my colleague Councilmember Elrich. And
40 what I'm going to suggest to my colleagues is that I'm going to put together a memo,
41 believe it or not, probably by, I'd say, mid-August, to give an outline to staff, so when you

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1 come in September, you'll have a sense of what additional information many of us might
2 want, because one thing I've asked about -- I did in the committee yesterday -- is I'd like to
3 have more information about the number, the combined number of both full-time
4 unemployment and that underemployed part-time mix. In other words, I really think that's
5 more of a accurate read on exactly what the employment situation looks like, so I'd like to
6 have more information, whatever we can get from the state, David. I'm not really sure how
7 much will be available. But that's a good segue into the discussion that we're about to
8 have on the County's fiscal situation -- the clear relationship between some of these
9 unemployment numbers and the revenue challenges that we face, but obviously,
10 consequently, the state aid concerns that we all know we have to be aware of and working
11 to remedy and respond to. Obviously, we're going to be hearing about our outlook for
12 FY11 this morning, but I'm sure we're going to get into a little bit of a discussion on some
13 of our potential actions in response to that outlook, and obviously a savings plan is on the
14 table, once again, and the potential use of furloughs. And I would hope that over the
15 course of the next few months, especially when we get into an additional presentation in
16 September, we're actually able to talk in a more substantial way about the restructuring of
17 County government, because I really feel that ultimately, that's where we have to go,
18 despite the difficulty of the discussion, and despite the difficulty of the decision. So I thank
19 you for being here and look forward to your presentation.
20

21 COUNCIL PRESIDENT ANDREWS:

22 Thank you, Madam Chair. And I'll turn now to Miss Barrett, Mr. Farber, and Mr. Beach for
23 their remarks.
24

25 JOE BEACH:

26 Thank you, Mr. President. Good morning. I'll be working from page 3 of the Fiscal Update
27 packet the Council has.
28

29 STEPHEN FARBER:

30 Circle 3.
31

32 JOE BEACH:

33 Circle 3. Excuse me. Circle page 3. The Council is familiar with this display, so I'll just go
34 through some of the assumptions in this. The first -- lines 2-5 would be the County's
35 resources to fund the FY11 budget. We are using the revenues, the tax revenues and
36 other revenues, that were projected in March of this year, with only one exception -- that
37 is, we did count the debt service repayment from MCPS as a revenue. That has been
38 taken out and considered a one-time -- at least for purposes of this display. Revenues are
39 growing at one -- or projected to grow in FY11 at 1.5%. The net transfers, of course, on
40 line 5 would be transfers into the tax-supported funds, primarily -- one of the largest would
41 be the liquor control transfer, as well, and we are projecting transfers to decline in FY11 at

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1 this point. So total resources available to fund the budget, on line 6, would actually decline
2 in FY11 to -.3%. Line 7, just to remind the Council, the other uses would be spending
3 outside the Capital Budget. That would be the use of cash in our capital program, either
4 PAYGO or current revenue in the CIP, the County's debt service payments, which are
5 about 250 million, and our reserves. The assumption on PAYGO is, we do assume the
6 10% PAYGO policy would be restored in FY11, so we have an assumption of about 30
7 million in the use of PAYGO in FY11, and we have assumed to restore our reserves to the
8 6% policy level in FY11, as well. And I know some questions will come up about that later
9 -- I expect that they will -- but those are the County's policies. They're sound policies, and
10 as a starting point in doing our projections, we did want to start there with those, even
11 though in FY10 we did depart from some of those policies, as well. FY11, agency uses, on
12 lines 10-13 -- these are projected on a -- based on major known commitments. I know
13 when we spoke to the Council in the past, we've used a rate of growth estimate, and
14 coming up with these projections for FY11, we worked with each of our agencies and
15 MCPS and the college on their estimate of major known commitments. And this would be
16 things like operating costs of capital facilities. For the schools, it would be enrollment
17 projections. It would be contractual cost increases and other programmatic or legal
18 commitments, as well. We do have in here the cost of implementing the agreed-to labor
19 agreements with the firefighters as well as with Park and Planning's two unions, with
20 MCGEO and the FOP. For illustrative purposes, even though we do not consider them to
21 be major known commitments, we've included the estimated cost of labor agreements in
22 FY11 with other unions at the FY10 level. So agency uses, before we get to the
23 prefunding for retiree health insurance, on line 14, is projected to grow by 4.7%, and
24 below that, on line 16-19, we do have the resumption of prefunding for retiree health
25 insurance on lines 16-19 -- about 65 million in FY11. The obvious math of that, if you look
26 at total projected uses on line 22 of 9.1% and the amount, our growth in revenue, or
27 actually our contraction in resources, of -.3%, produces the gap on line 23 of about 370
28 million for FY11. For comparison purposes, last year at this time, we were looking at a gap
29 of about 250 million. That included an assumption of compensation -- as this projection
30 does, as well -- so at the same time as last year, the gap is about 120 million larger than
31 we had projected at this time last year. Turning to page -- circle page 4 in your packet,
32 some other -- a summary of some FY10 and FY11 issues. Among the assumptions we did
33 not make in our fiscal projection is, we did not make any assumption of additional state aid
34 reductions. The Board of Public Works is scheduled to meet in August, and they will
35 consider some additional reductions to -- to the counties, local aid, so we know that there
36 will be some reductions, but we're not making any estimate of what that would be in FY11.
37 We also don't make any assumption of deterioration in our local revenues, in our tax
38 revenues. So we do assume meeting the Charter Limit for property taxes, but with an
39 assumption of inflation at 3.4%. With lower inflation at the .4% level, it would be a \$40
40 million reduction in our property tax revenues and, of course, would add to the gap. We do
41 not make any assumption of a penalty imposed by the state if they determine that we did



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1 not satisfy the Maintenance of Effort requirements, and we don't account for any other
2 variables, like a fuel price spike or extraordinary stock market losses. In addressing the
3 FY10-FY11 gap, we did want to mention that our discretion is a lot more limited than we
4 had in the past. In the past, our savings plans had been heavily weighted toward the use
5 of lapse. There -- with the reduction of over 200 vacant positions, with increases in lapse,
6 both by the Executive and the Council, and other reductions, both in the County
7 government and the MCPS budget, there's a lot less flexibility to have a savings plan of
8 the magnitude that we had in the past couple of years. In FY09, the savings plan was over
9 30 million. I don't expect that, using the same tactics as we did last year, we'd be able to
10 achieve the same level of savings, as well. We also, obviously, with 5% reserve levels, we
11 have less discretion, especially in light of our risk, and we are encountering, for the first
12 time in several years, some issues with cash flow limitations that I think the Director of
13 Finance might want to comment on briefly.

14
15 JENNIFER BARRETT:

16 Let me talk about that a little bit, because it is something that we haven't experienced
17 since the early nineties. We maintain a cash budget, and we do monitor our cash
18 situation, and this is kind of behind the scenes. This doesn't have to do with appropriation.
19 It has to do with just money on hand to pay our bills. And in looking at the situation, just a
20 simple explanation of what the challenge is for us is that in the first couple of -- months of
21 the fiscal year, July and August, our cash outflows -- and these are nondiscretionary items
22 -- are about \$300 million, \$350 million a month. This is payroll, and there happened to be
23 five payrolls rather than four during that eight-week time period because there's, you
24 know, three in July frequently -- or August. We have required transfers to other agencies,
25 we have contractual arrangements for making transfers for health benefits and other
26 things. We have some debt service payments, et cetera. Our cash inflows from revenues
27 are only about \$150 million a month, for a total of \$300 million over those two months. We
28 have lots of cash coming in in September, when the mass pay -- that's when the mortgage
29 companies make the payments on the property taxes, in the month of September. So it's
30 not a problem when you look at the entire fiscal year, but there is a cash flow challenge in
31 those first two months of the fiscal year, and the numbers that I just cited show that you
32 need about \$400 million when you end a fiscal year to make it through before all your
33 revenues are coming in from the property tax. Those are delayed until September
34 because of biannual -- semiannual billing. The -- we do make it through, and there are
35 some changes that we can make on a long-term basis, but what I want to point out is that
36 some of our reserve policies -- our having PAYGO allocated, making OPEB, or payments
37 to our pension funds, over the year on a quarterly basis rather than all up front --
38 contribute to solutions to this and contribute to us to be able to operate in a way that large
39 organizations, that are \$4.2 billion organizations such as ours, need to operate. So it's a
40 connection between the policies we have in place and our actual operations that gets
41 highlighted in constrained times like this, in the cash flow situation.

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1
2 **JOE BEACH:**

3 Thank you. All of which indicates that, I think, to have a savings plan in FY10 of the level
4 that we were able to have in FY09 would require, or may require, further service
5 reductions midyear and may require additional -- even midyear layoffs, as well. That is
6 among the reasons we bring up, again, the issue of furloughs -- not that the County
7 Executive is recommending them, but it may be an option that we want to consider to
8 either supplement or instead of a savings plan. The reason -- I think it's been pointed out
9 in OLO's excellent report -- that it would be a temporary service reduction rather than a
10 permanent service reduction, and they would produce achievable and reasonable
11 savings, and we do recommend, if we were to do that, that it would produce -- that it
12 would have to be a furlough across all the agencies to produce meaningful savings. As
13 the County Executive mentioned this morning, a furlough for the County government
14 alone on a one-day basis would be 2 million. If we excluded public safety, it would be
15 about 1.6 million. Across all the agencies, it's closer to 10 million per day, so it would
16 produce more meaningful savings. And of course, it would be temporary savings, it
17 wouldn't be long-term, and we are looking at a long-term structural gap in the County, but
18 we do feel that's an option we need to consider going into FY11, as well. One last thought,
19 and I have it under "exit strategy" here in circle 4, is, first of all, we need to present the
20 rating agencies with a plan, long-term plan for restoring OPEB, restoring our reserves,
21 restoring PAYGO, as well, and those policies that have served us so well in the past. Also,
22 we want to leave the recession, as we did in the early nineties, in a stronger fiscal position
23 than when we began it. In the early nineties, for instance, we strengthened our reserves
24 through establishing the Revenue Stabilization Fund. We made some long-term changes
25 to how we funded our benefits, both in establishment of a defined contribution plan, as
26 well as the premium share with employees, and also we left with some more tax room --
27 which, at this point, we really don't have that flexibility, as well. So I think that should be
28 one of our goals, is in the long term -- if not in FY11, afterward -- to really position
29 ourselves for the future with those stronger fiscal policies, as well. So at this point I can
30 take any questions you might have.

31
32 **COUNCIL PRESIDENT ANDREWS:**

33 Thank you very much, and there are some. Before I turn to the questions, though, I
34 wanted to ask Mr. Farber to add -- if he has any comments he wants to add to his
35 excellent packet, which is always the case. Anything you want to bring before the Council
36 at this point?

37
38 **STEPHEN FARBER:**

39 I think that circle 4, which Mr. Beach has just gone over, really summarizes on one page
40 what the core issues are. I think, as you indicated this morning, Mr. Andrews, in the
41 discussion with the County Executive, and as Miss Trachtenberg alluded to, when we



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1 come back in September, we'll have some important additional information. We'll know
2 what the state has or has not done in the way of reductions. As the governor said, he'll be
3 making decisions with the Board of Public Works in August, so we'll have information on
4 that. Also, by mid-September, we'll have the next revenue update by the state, and we'll
5 learn whether there is a further write-down of state revenues like the one that we've just
6 experienced. We'll also have a little bit more information about our own County revenue
7 and expenditure situation, but it does seem to me that if the situation is as Mr. Beach and
8 Miss Barrett have presented it, and I think it is, then certainly in September, it will be time
9 to start making some decisions as to some of the options that the County Executive laid
10 out, whether it's with respect to a savings plan and what the components of that might be
11 or furloughs or whatever. The sooner we get on top of this problem, the better, in terms of
12 the time of the fiscal year.

13
14 COUNCIL PRESIDENT ANDREWS:

15 Right. And the earlier the decisions are made in the fiscal year, clearly, the more potential
16 for savings because of the longer period of time. Thank you. All right. I'm going to turn to
17 Council Vice President Berliner and then Councilmember Knapp and Councilmember
18 Trachtenberg.

19
20 COUNCIL VICE PRESIDENT BERLINER:

21 Again, thank all of you for your quality presentation. In my conversations yesterday with
22 the County Executive, I totally understand why you want to start from your \$370 million
23 figure with the assumptions that you've made. I think the conversation today has made it
24 clear, the conversation yesterday made it clear, that we're really talking about 410 as of
25 this moment in time, at the very least, and that's before state action, which we don't want
26 to speculate on because if we do, then we'll bring about our own worst nightmare. So we -
27 - but we know that more is coming, so it's going to be north of 410 if current trends hold.
28 My question really is to Mr. Farber, because I was very appreciative of your packet,
29 particularly on page 4 -- not circle 4, but on page 4, that alluded to the fact that, as I
30 believe the MFP chair observed, we may be back in the world in which we're making very
31 similar decisions as we made last year with respect to the reserve, with respect to
32 PAYGO, with respect to our County budget number, as opposed to the numbers that are
33 presented in these assumptions. So what I need to help frame me -- and I believe the
34 public would be better served by, or at least well served by, if not better served by -- is
35 understanding if we did all these steps again -- and including, for purposes of this
36 conversation, which the County Executive is discussing, no COLAs and no steps -- where
37 would we be? So if we did the following: if we had zero percent growth in our budget,
38 similar to last year, as I understand it -- actually, a negative this year; if we did the
39 reserves, as we did last year, 5% as opposed to 6%; PAYGO as we did it last year; and
40 assuming that we were successful in our conversations with our labor partners that this is
41 another year in which we cannot afford increases, where would that leave us? Would we

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1 still have a gap? And if so, I think that's just so important for people to appreciate -- that
2 even if we do these extraordinary measures, we may still not be where we need to be.

3
4 STEPHEN FARBER:

5 Yeah. I think the short answer is yes, we -- we still would have a gap. Obviously, it be
6 considerably smaller. First, with respect to compensation, the major known commitments,
7 which is in the addendum that you have, basically shows, as I recall, something like \$123
8 million assumed for general wage adjustments, or COLAs -- based again, as Mr. Beach
9 said, on what would have happened in Fiscal '10 but did not -- and then another \$27
10 million or \$28 million for steps. So you're talking, between the two of them, in the range of
11 \$150 million, in the event that they were not to occur, hypothetically. With respect to the
12 other issues that you raised that go to the heart of our fiscal policies -- namely, about \$30
13 million in PAYGO that we would normally put in -- I think it's about \$65 million in retiree
14 health benefits prefunding. That brings us up to 95. And then finally, the reserves, that
15 would probably be another 40-plus, something like that. So you're talking in the \$135-140
16 million range, but I would emphasize, as Mr. Beach and Miss Barrett has -- have
17 emphasized -- how important those policies are to us. But that stipulated --

18
19 COUNCIL VICE PRESIDENT BERLINER:

20 That's my question. Can we get to less than \$300 million in a world in which we're talking
21 about north of 410?

22
23 STEPHEN FARBER:

24 410 before anything that the state might do.

25
26 COUNCIL VICE PRESIDENT BERLINER:

27 Before any further happens.

28
29 STEPHEN FARBER:

30 Yeah, yeah. So the short answer to your question is, yes, the gap would be reduced
31 considerably by these actions, which are themselves difficult to take --

32
33 COUNCIL VICE PRESIDENT BERLINER:

34 Extraordinary. Yes.

35
36 STEPHEN FARBER:

37 But it would not do the whole job by any manner of means.

38
39 COUNCIL VICE PRESIDENT BERLINER:

40 I do think that -- at least that's very helpful to me to appreciate the order of magnitude and
41 the need for a savings plan, then, because if we can't get there taking that combination of

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1 extraordinary measures, then we got more work to do, and we need the public to
2 understand and to begin to appreciate this order of magnitude. So, it's...

3
4 STEPHEN FARBER:

5 I think the public understanding of the gravity of the problems is increasing. I think
6 everybody understands what's happening with federal deficits that are occasioned by a
7 lack of revenue and stimulus spending and all the rest. Certainly, state after state is
8 having problems -- California, a \$26 billion gap, deficit, that they filled, sort of, and that
9 they'll have to probably come back to. We're much more fortunate. We don't have the
10 15.2% unemployment rate of Michigan and the double-digit rates in probably 15 other
11 states, but I think there is a growing appreciation of the magnitude of the problem, and as
12 Miss -- Mr. Platt and Miss Barrett have pointed out, unfortunately, unemployment is a
13 lagging indicator, and it's going to rise a lot more before it falls. Moreover, I think it's clear,
14 for some of the reasons that Mr. Knapp was talking about in terms of demographic --
15 demographic trends and changes, what we're going to see is what Bill Gross, the PIMCO
16 co-chair, calls a new normal, and the new normal will be a period, unfortunately, of slower
17 growth than we've seen in the past, not a return to the halcyon days of, say, 2005, '06,
18 and '07. And all of that combined, I think, is now being reflected in lower consumer
19 spending, people retrenching. It's more savings. People have to do these things in order
20 to thrive and survive. I think there's a growing realization that the curve has bent
21 downwards, and what this means in terms of consumption, which is 2/3 of the economy,
22 what this means in terms of what we can expect in revenue growth, is that we'll have to
23 adjust our expectations.

24
25 COUNCIL VICE PRESIDENT BERLINER:

26 Well, if the gap is anywhere close to something on the order of \$100-150 million, which is
27 what I hear us basically talking about here, after no COLAs, no steps, 5% reserve, no
28 PAYGO, and -- what -- zero interest or zero percent growth in our budget, or the same
29 level as we did last year, an actual -- for this year, an actual decrease. If we were to do all
30 those things and still be \$150 million short of where we need to be, we have a situation
31 here. Thank you.

32
33 COUNCIL PRESIDENT ANDREWS:

34 Thank you, Council Vice President, and it argues for the development of a savings plan
35 very early in the year so that we can maximize the savings, and I would expect that we
36 would want to have a savings plan in place by early to mid-fall, if not sooner, in some
37 ways, in order to take advantage of the greatest amount of time we can of the fiscal year.
38 So I expect that we will be spending time as a Council on a savings plan in September
39 when we get back, with the idea of getting one in place as soon as possible after that.
40 Councilmember Knapp.

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1 COUNCILMEMBER KNAPP:

2 Thank you, Mr. President. Mr. Berliner alluded to why we wouldn't want to change certain
3 assumptions. I guess I was a little confused, given what we just heard. We don't expect
4 anything to get a whole heck of a lot better from an inflation perspective, and since we
5 kind of know that -- and I know we make adjustments at a given point in the year, but do
6 we -- during the course of the fall, do we make that adjustment to have our inflation reflect
7 what we expect reality to look more closely like, or do we want to continue to have a 3.4%
8 assumption?
9

10 JENNIFER BARRETT:

11 Well, what you'll see is, at some point late fall -- this won't be at the September update,
12 but much later in the year -- Mr. Platt does update his revenues, but I want you to
13 understand that what we're reporting, the .4% inflation is through May, and it's year over
14 year that the Charter Limit is based on, so we just simply will not have, you know, the full
15 information until much later, but, you know, we can let you know what the latest
16 experience is on inflation. We'll be getting updates for each month.
17

18 COUNCILMEMBER KNAPP:

19 Thank you. We've been talking about furloughs, and it was interesting, in the conversation
20 we had with the County Executive this morning, it was pointed out that a number of other
21 jurisdictions had actually recognized they would have to do furloughs, as well, but did try
22 to minimize service impact, and recognizing the fact that we would have to bring in all of
23 our agencies to make that work, August would appear to be a month in which you would
24 try to do that, since schools is going to be one of the most significant agencies. Have we
25 engaged that conversation yet? Have we started that dialogue? Because once we come
26 back in September, which apparently is the next update, school is already in session, so
27 it's pretty difficult to do anything without having some type of a service impact.
28

29 JOE BEACH:

30 Yes, we have. We have mentioned that to all the agency heads, as well as with the
31 unions, as well. We did meet with the agency heads yesterday. We met with the union
32 presidents, as well. We didn't state it as a proposal or a recommendation, but we certainly
33 put it on the table and said it's something we strongly need to -- to consider.
34

35 COUNCILMEMBER KNAPP:

36 And so we hope that they're going to have seen the -- they're going to, I don't know, see
37 the light and come back to us in the next week and say, "Oh, you're right"? We -- we're
38 going to put furloughs on the table, or are we going to engage them in dialogue further in
39 the next week or so to actually make a recommendation and get to a decision point.
40

41 JOE BEACH:

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1 We'll continue the discussions. I don't think it's going to be voluntary on anybody's point to
2 do that, but I think we have begun the process. We're sharing all the information that we
3 have with them in terms of our economic indicators and our fiscal projections and our
4 revenue estimates, as well. So, yeah, we're going to -- we have begun that process
5 already, and we're going to continue that dialogue. But I agree with you -- the sooner we
6 make that decision, I think, the more achievable those savings are going to be.

7
8 COUNCILMEMBER KNAPP:

9 OK. So...

10
11 JOE BEACH:

12 But just to point out, I mean, that requires -- the County government can only speak for --
13 the County Executive can only speak for the County government. We require the
14 cooperation and consent of the other agencies to implement all those, as well.

15
16 COUNCILMEMBER KNAPP:

17 Well, that's -- I guess that's why I'm asking the question, because to have had one
18 discussion saying it's an interesting idea while we have -- when does school start? The
19 27th? 31st? All right. So we've got 34 days in which we could actually have had something
20 done where you're going to minimize service impacts -- actually, not even that; about 20
21 days, because teachers start coming back by the third week in August.

22
23 JOE BEACH:

24 I don't think we need to make the decision before school goes back into effect. I mean,
25 those days can happen during one of the holiday breaks, as well, just for instance.

26
27 COUNCILMEMBER KNAPP:

28 OK. Well, it just seems an opportunity we will have missed, but I'm not surprised at that.
29 Someone alluded to the fact that our policies and our procedures and what we're
30 presenting to the rating agencies -- a couple of years ago, when we talked about OPEB
31 the first time, there were conversations that had taken place with the rating agencies and
32 with the Executive and with some members of the Council, but not all the Council -- and
33 this was prior to this Council. This was four or five years ago. I think given what we're
34 doing, it's going to be important -- and I think Mr. Berliner raised this earlier on, or Mr.
35 Leventhal -- is having a set a of principles that we're all operating under the same set of
36 assumptions. And so I think it's going to be important for us to understand what it is we're
37 communicating to the rating agencies before we do it, and so at the Council's retreat -- I
38 don't know. When did we do that -- in end of June? This came up as an issue, to try and
39 get some sense of what it is we're going to be telling them before we actually go tell them,
40 and so it may be sometime in September, either through MFP or we'll have a Council
41 conversation, maybe even have a breakfast one morning, and just kind of walk through



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1 what it is, because I guess you're going in early October, right? Just to try and get some
2 sense of what it is so we have some idea of what -- what we're trying to communicate as
3 far as policies and procedures. And we know what kind of the big goals are, but given
4 what Mr. Berliner just said, the reality -- there's a very strong reality we may end up doing
5 similar things to what we did this past year, and so what does that mean and how do we
6 communicate that? So we're having a conscious decision on the front end, as opposed to
7 us backing ourselves into a corner, and we end up in January saying, "Well, we'd like to
8 do that, but we already told the rating agencies we're going to do something completely
9 different," so I think it's important for us to have a full level of communication before we go
10 up to New York.

11
12 JENNIFER BARRETT:

13 We certainly can have that conversation, but just to give you some assurances. What we -
14 - when we say we keep the rating agencies up to date, I'm updating them on actual. For
15 example, I've e-mailed to them the packets for both the economic indicators and the fiscal
16 update. So they're seeing the same information you're seeing -- public information that's
17 out there. The -- the presentation, as you know from seeing it, reports on activity. It reports
18 on the economic indicators. It reports on the actions the Council took in the budget. It
19 reports on the gap. It does not report on a proposed action. It's more actual, so I think we'll
20 be able -- we're keeping them up to date kind of in lockstep with what we're doing with
21 you. For example, although we do the -- the main focus is on the annual rating update for
22 our General Obligation Bond rating. We are right now doing another issuance of
23 commercial paper over the next few weeks, so I've got update calls -- Joe and I are on
24 one tomorrow morning with one of the agencies, and we're just reporting to them the
25 same kind of information that you're seeing -- you know, the public packet. So we can
26 have the conversation more in September as we're looking toward the October updates,
27 but we'll be talking to them about what we've been through, the solving of \$1.2 billion over
28 the last three years, what the Council did in the FY10 budget, actions in place for the
29 FY11 budget. They've seen circle 4 now because they're getting that same public update,
30 so it's really based on public information, actual information, not so much prospective
31 plans that we then have an issue with. I don't make commitments on our behalf.

32
33 COUNCILMEMBER KNAPP:

34 But we know that there will be questions asked, and we can assume, to some degree,
35 what types of questions they will ask.

36
37 JENNIFER BARRETT:

38 Sure.

39
40 COUNCILMEMBER KNAPP:

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1 And I think it's going to be important for us to understand what kind of answers we think
2 we're going to provide.

3
4 JENNIFER BARRETT:
5 Sure.

6
7 COUNCILMEMBER KNAPP:

8 And I think it's important for us to think that through, because I'm not sure that we would
9 necessarily know which answer it is. So I think it -- that's the kind of dialogue I think we
10 need to have. I agree with you that what we're saying is, "Here's what's happened. Here's
11 what looks like going to happen." When they ask the question, what do they think we're
12 going to answer?

13
14 JENNIFER BARRETT:

15 And one thing that they -- we've heard from them is they understand, during these tough
16 fiscal times, that things like reserves and OPEB are things that -- that's why they're there
17 for -- for governments to go to. But they've been very clear -- they want to know how --
18 what is our plan for getting back to our policy levels.

19
20 COUNCILMEMBER KNAPP:

21 Right. And I think it's important for the Council to have -- to think that through, too, as
22 we're starting to put in place -- I mean, we're going to be doing budgets all year long, and
23 so in the back of our minds, I think we need to understand what our plan will be, and so,
24 as we're communicating that externally, I think it's important for us to keep being reminded
25 of that internally.

26
27 COUNCIL PRESIDENT ANDREWS:

28 Agreed. All right. Thank you, Councilmember Knapp. Councilmember Trachtenberg.

29
30 COUNCILMEMBER TRACHTENBERG:

31 Again, I'll -- I'll be brief, and Councilmember Knapp provided me with a good segue into
32 some of the requests and comments I was going to make briefly. You know, we have had,
33 I think, a good conversation this morning on the need for a savings plan, and I would take
34 it a step further -- and I've been saying this now for quite a while -- that, you know, part of
35 what we need to do is develop that long-term plan which basically aligns our expenditures
36 with our revenues, with our revenue base. And I think if I were to look at what our
37 principle, first principle or objective would be, it would be to do just that. There will be
38 questions, no doubt, during the rating trip, but I think what I'd like to see is some
39 discussion and some consensus formulated about that very principle I outlined by the time
40 the budget is provided to us next March. That's what's in my mind, that we've got a few
41 months now where we've got to sit down and really do some serious work together, and

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1 I'm sure we're -- we're going to get there. I've got two areas that I wanted to ask for
2 additional information on. One is the state workgroup that I've mentioned now several
3 times, to study state, county, and municipal fiscal relationships. I wonder if by our
4 September discussion within MFP and within this full Council, we can have some
5 feedback from our four representatives on that committee about what they've actually
6 been talking about, because through this day, we don't really have much detail. Again,
7 there's a charge for the workgroup on circle 19, and I'd be really curious, you know, what -
8 - what they see as their first priority and whether they've met and what their schedule is
9 going to be. I get very nervous, as I said yesterday, when workgroups are formed and
10 there's no timeline provided. So I wonder if we can't do a little -- a little trolling for
11 information during the course of August/September in that regard. And I also wanted to
12 ask some questions about a efficiency -- cost-efficiency study group that was referenced
13 by the County Executive both yesterday and today. And again, this is part of the MCGEO
14 concession agreement that was approved by the Council back this past May during
15 budget season. And I wondered, has this workgroup met yet? Do we know? Has it met
16 yet?

17
18 JOE BEACH:

19 Yes. We had an initial meeting.
20

21 COUNCILMEMBER TRACHTENBERG:

22 And when was that?
23

24 JOE BEACH:

25 Back in, I believe it was...in July, early July. I'll have to go back to my calendar.
26

27 COUNCILMEMBER TRACHTENBERG:

28 OK. Early July. And I wondered, you know, if we could have some information about the
29 progress, but I also understand, from what the Executive stated both yesterday and this
30 morning, that a similar opportunity would be offered to some of the other unions, because
31 as we began a conversation yesterday about restructuring, this was referenced, perhaps
32 as a pilot that we could use across disciplines. So I wondered where we were going to be
33 with that simply because we're talking about contract negotiations come
34 September/October, and it would be clearly in our best interest to have some direct
35 dialogue with union leadership about this, because if we are going to really pursue
36 efficiencies and align expenditures, the best way to do that, as we all know, is to work
37 collaboratively with union leadership. So I'd like to find out and have some information
38 given to us in September about that very idea -- whether or not it's actually been
39 discussed and any kind of terms of agreement have been reached. And pretty much those
40 would be my requests, and I thank you for your presentations this morning, and I look
41 forward to the conversation in September. It would seem to me that we have a lot of

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1 outreach to do with the community, but we also have a lot of heavy lifting to do about --
2 about the fiscal situation that we find ourselves in.

3
4 COUNCIL PRESIDENT ANDREWS:

5 Thank you, Councilmember Trachtenberg. And I thank everybody for their participation.
6 This is a critical issue, obviously. It's really Topic A for the Council. It will be, I think, for the
7 remainder of the year, in terms of -- of coming up with a plan that will, in a wise and
8 sustainable way, enable us to pass a budget next year that preserves essential services
9 and asks for shared sacrifice in a -- in a fair and defensible way. So, thank you all. We're
10 going to now move onto action item 7, which is a resolution to amend the amended Silver
11 Spring Urban Renewal Plan regarding -- the topic was the pedestrian bridge to the
12 proposed Silver Spring Library. We have a recommendation from the Planning, Housing,
13 and Economic Development Committee and the Health and Human Services Committee,
14 which met jointly on the issue, and I'll turn to the chairs of those committees --
15 Councilmember Knapp and Councilmember Leventhal. OK. Councilmember Knapp will be
16 first.

17
18 COUNCILMEMBER KNAPP:

19 Thank you, Mr. President. As you indicated, the Planning, Housing, and Economic
20 Development Committee and the Health and Human Services Committee met last week,
21 on the 21st, to address a proposal that had come over from the County Executive. On
22 February 19, the Executive transmitted a proposed amendment to the Silver Spring Urban
23 Renewal Plan. The current plan in Silver Spring prohibits pedestrian bridges in the urban
24 renewal area. The Executive believed the pedestrian bridge across Wayne Avenue was
25 warranted for the proposed Silver Spring Library project and recommended language that
26 you can see on -- in the paragraph at the bottom of the first page of our -- of our agenda
27 item. So what the committee was actually looking at was a language change, and that
28 was -- that was the proposal. Obviously, if no such language change comes forward, then
29 a pedestrian bridge over Wayne Avenue would not be allowed, so, in effect, we're also
30 having a conversation about the effect of about having a bridge or not having a bridge on
31 the library. So while it was a -- an amendment to the Urban Renewal Plan, it was also a
32 discussion about the library and providing parking and access to such parking for the
33 library itself. We had a very lengthy discussion, and the recommendation from the joint
34 committee was 4-1 against making the amended change as proposed by the County
35 Executive. If you look on pages 2 and 3 of your packet, this was a situation that was not
36 everyone on one side or everyone on the other. You can see, on page 2, staff has laid out
37 a number of organizations that support the amendment, number of organizations that
38 oppose the amendment, organizations -- like the Planning Board -- which had no position
39 on the amendment. And on page 3, Mr. -- where is he? -- Mr. Zyontz -- ah, there he is --
40 had actually outlined fairly well arguments in favor of the bridge and arguments opposed
41 to the bridge. We walked through all of them. We heard from the Executive staff. We

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1 heard from the Planning staff. We heard from advocates from the disability community.
2 And as a result of listening to all of that information, I believe that the committees came to
3 the conclusion that to find seven parking spaces that could be accessible for the library
4 could be done for less than \$750,000 for a \$750,000 bridge, or even a \$3 million
5 modification to the building, and that such a solution should be found. To be fair, there
6 were proposals, I think, put forward by the Planning staff which would lead us to believe
7 that we could probably get to a reasonable conclusion, although I would have to say that
8 there weren't concrete proposals put forward on the table that would say, "This is THE
9 answer." So by not approving the amendment, basically I would say what we gave the
10 direction to Executive branch staff and to the Planning staff is to go back, work together,
11 and come out with a -- a cost-effective solution to this problem. That was my
12 encapsulation of where the committees came down. There was one dissenting vote. That
13 was the chair of the Health and Human Services Committee, Mr. Leventhal, and I will at
14 this point turn to him for his dissenting remarks.

15
16 COUNCILMEMBER LEVENTHAL:

17 Thank you, Mr. Chairman. On matters affecting disabled people, I want to listen to the
18 disabled people themselves. I think that those of us who are able-bodied don't really have
19 a very good understanding of what the day-to-day experience is for those who are not
20 easily able to walk and easily able to get from one place to another. I have some concerns
21 about whether policymakers in this County get all the value added that we might get from
22 our 83 boards and commissions, but one commission that I found is a consistent source of
23 good advice, and that in the past this Council has listened to and heeded quite carefully,
24 has been the Commission on People with Disabilities. And I was persuaded by the
25 testimony of its chair, Cindy Buddington, at the public hearing -- although I did not attend
26 that public hearing -- I was away on other Council business -- I did watch it -- that we
27 ought listen to the voices of the disabled, and they -- and Cindy Buddington and other
28 members of the commission have indicated quite clearly that they have real concerns
29 about accessibility of this library. We heard during the public hearing that, in fact, the
30 Rockville library, at least -- this is Cindy Buddington; this is not a scientific sample of all
31 disabled residents of Montgomery County -- but she just doesn't use it. She finds it too
32 difficult to get to as a result of the bricks in the courtyard in front of the entrance. And my
33 concern is that if we don't provide the access that the Commission for People with
34 Disabilities has asked us to provide, the usage rate at this library by disabled people will
35 similarly be smaller than we would hope it would be. The Purple Line, when it's built, it will
36 be necessary that the Purple Line actually cross, to get to Wayne Avenue, the access
37 route that the Planning Board proposes for this library, so that it will not only be necessary
38 to get from the parking spaces to the library -- as David Dise will describe in a moment, an
39 uphill grade -- but it will also be necessary to cross Purple Line tracks. So -- so we were
40 told by the Commission on People with Disabilities that they just won't navigate it and that
41 use of this library by the disabled may suffer. I was -- I heard vividly the Council

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1 President's remarks a week ago when he stated, and I quote, "There should be no
2 barriers to library access." Those were the Council President's words. I -- I may be in the
3 minority on this issue again, but intelligent people can listen to the same set of facts and
4 come up with different conclusions. I did listen to the public hearing on this. I've had
5 dialogue with my constituents in the Silver Spring area. I know that there is a view that
6 merchants and retail will somehow suffer if it is made as quick and convenient as possible
7 for those who park in the Wayne Avenue garage to walk directly to the Silver Spring
8 library. I'm skeptical that that will be the case, simply because of the design of that
9 intersection. There isn't actually a whole lot of retail at that intersection. And the solution
10 that's proposed by the Planning Board would actually remove parking spaces that are now
11 used by the general public to access restaurants and merchants on Bonifant Street.
12 Those would now, under the Planning Board's proposal, be reserved for use only by the
13 disabled. So -- so I think the solution that is proposed -- that is proposed to cost less than
14 three-quarters of a million dollars, in the interest of promoting street-level retail and
15 pedestrian activity, actually takes parking spaces away from street-level pedestrians and
16 retail activity. And we heard from our Department of General Services that modifications
17 that will be required to address the problem with grade may, in fact, end up costing us a
18 great deal more than what the pedestrian bridge would have cost. So I don't want to
19 belabor this issue. I think the will of the Council has been clearly stated. My suspicion is --
20 is that once this library is constructed, some years from now, the Council will again be
21 faced with a desire from the community for a easy-access pedestrian bridge from Wayne
22 Avenue garage to the library, because once you drive into the parking structure, if you're
23 on the third floor or higher of the parking structure, you're going to notice that the shortest
24 distance between two points is a straight line, and we will be asked in the future, why
25 didn't the County just create a bridge to make it easier to walk directly to the library? It's
26 simply a matter of convenience. It is -- if you're parked on the third, fourth, or fifth floor of
27 the Wayne Avenue garage, you will need to walk or take an elevator down to the street
28 level, you'll need to walk up the street to -- to the intersection at Fenton, you'll need to
29 walk across the street, you'll need to walk into the library, and you'll need to go up the
30 escalator because the library doesn't begin on the first floor. So what the Executive branch
31 was simply proposing was a straight line to avoid all of that distance. I think not only the
32 disabled but many of our constituents would access it. Their decisions as to -- we've
33 received communication from our constituents saying that if you're going to the library and
34 taking out a bunch of books, it isn't all that likely that you're going to be doing a whole lot
35 of other shopping and pedestrian activity anyway. If you're going to Silver Spring to do the
36 shopping and dining and pedestrian activity, you'll do that. If you're going to the library to
37 take out a lot of books, you would appreciate an overpass that would make it as simple as
38 possible. And my last concern is that I hope that if the will of the joint committee ends up
39 being the will of the Council that we can have a conversation with DGS and DOT about
40 avoiding mid-block crossing. This is my current real concern, is that many, many
41 individuals will leave the Wayne Avenue garage, exit the Wayne Avenue Garage in the

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1 middle of the block, and as people do, they will want to get to the library the easiest
2 possible way, which will not be to walk all the way to the crosswalk, but instead a lot of
3 people will end up crossing Wayne Avenue at mid-block, and that will pose some real
4 hazards, so I hope we can do some thinking about that.

5
6 COUNCILMEMBER KNAPP:
7 Thank you.

8
9 COUNCIL PRESIDENT ANDREWS:
10 Thank you, Chair Leventhal. I'll turn back to Chairman Knapp.

11
12 COUNCILMEMBER KNAPP:
13 I just want -- I appreciate the concerns raised by Mr. Leventhal, and the committee
14 certainly spent a lot of time discussing them last week, and it is important to note that the
15 current design as proposed without the bridge is ADA compliant. So that's an important
16 point to make sure is out there, because the committee is very concerned about access
17 for the disabled community. The other point I would just raise is, what is before the
18 Council is on circles 1 and 2 in our packets, which is a resolution to disapprove the
19 amendment to the Silver Spring Urban Renewal Plan transmitted to the Council on
20 February 19, 2009. So that's the actual action item that we would be taking at the
21 appropriate time, Mr. President.

22
23 COUNCIL PRESIDENT ANDREWS:
24 Thank you. All right. I do not see any other comments from colleagues, so I think we're
25 ready then to vote on the committee's recommendation for disapproval of the amendment
26 to the amended Silver Spring Urban Renewal Plan, transmitted to Council on February 19,
27 2009. All those in favor of the committee recommendation, please raise your hand. And
28 that's Councilmember Elrich, Councilmember Trachtenberg, Councilmember Floreen,
29 myself, Council Vice President Berliner, Councilmember Knapp, Councilmember Ervin.
30 Those opposed? Councilmember Leventhal.

31
32 COUNCILMEMBER KNAPP:
33 OK.

34
35 COUNCIL PRESIDENT ANDREWS:
36 So the amendment is disapproved, 8-1. All right. We are now moving on to -- and I'll note
37 that our -- the two Boy Scouts, who are still here--

38
39 COUNCILMEMBER KNAPP:
40 Nice job, guys.

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1 COUNCIL PRESIDENT ANDREWS:

2 They made it all the way through the long discussion on the budget, and that deserves --

4 COUNCILMEMBER KNAPP:

5 An extra badge.

7 COUNCIL PRESIDENT ANDREWS:

8 I think you're going for your communications merit badge. Is that right? Very good. Well,

9 I'm sure you're well on your way. All right. Good to see you. And you're welcome to stay.

10 We are not done. We're going to press on, and I think we'll -- won't finish too much after

11 12:30, which is when we're scheduled to recess. All right. We're now going to move on to

12 District Council Session. First item, item 8, is introduction of the Zoning Text Amendment

13 09-06, Town Sector Zone - Minimum Area, sponsored by Councilmembers Knapp, Elrich,

14 and Floreen. The action is a resolution to establish a public hearing for September 15 at

15 1:30. Is there a motion?

17 COUNCILMEMBER TRACHTENBERG:

18 So moved.

20 COUNCIL PRESIDENT ANDREWS:

21 So moved.

23 COUNCILMEMBER ELRICH:

24 Second.

26 COUNCIL PRESIDENT ANDREWS:

27 Moved by Councilmember Trachtenberg. Seconded by Councilmember Elrich. To

28 establish a public hearing on ZTA 09-06.

30 JEFF ZYONTZ:

31 If I can make one suggestion to the Council...

33 COUNCIL PRESIDENT ANDREWS:

34 All right.

36 JEFF ZYONTZ:

37 And that is, this is -- the TS zone is only in two areas of the County. It's in Montgomery

38 Village and Churchill in Germantown. The amendment language on circle page 1 has our

39 general kind of language that says we could also change other standards in the TS zone. I

40 think the Council would like to remove that so that you can only change -- it's -- the only

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1 purpose of the ZTA as drafted is to change the minimum area, and nothing else. So if you
2 remove that section, you'll -- you'll guard against that possibility.

3
4 COUNCIL PRESIDENT ANDREWS:

5 Are you suggesting that be removed --

6
7 JEFF ZYONTZ:

8 Just -- it's the second dot under the amendment. "The purpose of the amendment is to
9 amend, under certain circumstances, a reduction in the land area required for the
10 currently zoned TS." That's it.

11
12 COUNCILMEMBER KNAPP:

13 Take out the "and."

14
15 JEFF ZYONTZ:

16 Take out the "and" and the next bullet.

17
18 COUNCIL PRESIDENT ANDREWS:

19 OK. So stop after the second line, where it ends "zoned TS."

20
21 JEFF ZYONTZ:

22 Yes.

23
24 COUNCIL PRESIDENT ANDREWS:

25 All right. So it would read, "An amendment to the Montgomery County Zoning Ordinance
26 to allow, under certain circumstances, a reduction in the land area required for land
27 currently zoned TS." That's it.

28
29 COUNCILMEMBER KNAPP:

30 Yeah.

31
32 COUNCIL PRESIDENT ANDREWS:

33 OK. All right.

34
35 COUNCILMEMBER KNAPP:

36 And if I might, Mr. President, just to add clarification for that -- there are only two areas.
37 The goal for the introduction of this amendment was to address what the Council -- what
38 the committee, and hopefully what the Council, will be doing in the Germantown Sector
39 Plan. What we're not doing, and what we want to guard against, is addressing any issues
40 within Montgomery Village, and by taking this provision out, I think we provide assurance

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1 to Montgomery Village that this -- there is no intent to go and address the Town Sector
2 zone in their community. It's only focused on Germantown.

3
4 COUNCIL PRESIDENT ANDREWS:

5 OK. All right. So obviously that is what you're -- obviously acceptable to you, and I assume
6 to the co-sponsors, Councilmember Elrich and Floreen? OK. All right. Without objection,
7 then, it's amended in that way for introduction.

8
9 COUNCILMEMBER KNAPP:

10 Thank you, Mr. President.

11
12 COUNCIL PRESIDENT ANDREWS:

13 And let's see. Let's have the vote now on the motion to have the public hearing. All those
14 in favor, please raise your hand. Councilmember Elrich, Councilmember Trachtenberg,
15 Councilmember Floreen, myself, Council Vice President Berliner, Councilmember Knapp,
16 Councilmember Ervin, and Councilmember Leventhal. The public hearing is scheduled, a
17 vote 9-0, for September 15, on ZTA 09-06. Next item is 8.1 AA on the list, introduction of
18 Zoning Text Amendment 09-07, Life Sciences Center Zone - Revisions, sponsored by the
19 District Council at the request of the Planning Board, and the action is to -- a resolution to
20 establish a public hearing for September 15 at 7:30 P.M., which would be part of our
21 hearing on the Gaithersburg West Master Plan. All right. All those -- is there a motion?

22
23 COUNCILMEMBER FLOREEN:

24 So moved.

25
26 COUNCILMEMBER KNAPP:

27 Second.

28
29 COUNCIL PRESIDENT ANDREWS:

30 Moved by Councilmember Floreen. Seconded by Councilmember Knapp. All those in
31 favor of the resolution to establish a public hearing on ZTA 09-07, please raise your hand.
32 Councilmember Elrich, Councilmember Trachtenberg, Councilmember Floreen, Council
33 Vice President Berliner, myself, Councilmember Knapp, Councilmember Ervin,
34 Councilmember Leventhal. It is scheduled on a 9-0 vote.

35
36 COUNCILMEMBER KNAPP:

37 Mr. President, if I might, just one more piece. This is -- the Life Sciences Center Zone is a
38 zone that is being introduced to address the Gaithersburg West Master Plan. The
39 committee also got an update yesterday on the CR Zone, CR standing for...

40
41 JEFF ZYONTZ:

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1 Commercial retail.

2
3 COUNCILMEMBER KNAPP:

4 Commercial retail zone. We had hoped that we would have that for introduction today, too.
5 We do not yet have that, but I just want to let people know we expect to be getting it within
6 the week, and so, given the rules of the Council, it will be -- we can't introduce it until we
7 come back, but I just want people to know that it's out there, it's pending, and it's going to
8 be a part of the discussion. And so in the effort of transparency, because we've got a lot of
9 moving parts, to know that that zone is coming. It's going to be introduced as soon as we
10 can legally do so to make sure we get it on the public hearing process so we can have it
11 for full consideration during our consideration of Master Plans in the fall. Just so people
12 kind of know what's going on.

13
14 COUNCIL PRESIDENT ANDREWS:

15 Good. Thank you, Councilmember Knapp, for that update on that. All right. Next item is
16 item 9 on the agenda -- action on request for withdrawal without prejudice a Local Map
17 Amendment, application number G-823.

18
19 COUNCILMEMBER FLOREEN:

20 I move approval.

21
22 COUNCIL PRESIDENT ANDREWS:

23 OK. Move approval to accept the request for withdrawal.

24
25 COUNCIL VICE PRESIDENT BERLINER:

26 Second.

27
28 COUNCIL PRESIDENT ANDREWS:

29 Seconded -- moved by Councilmember Floreen. Seconded by Council Vice President
30 Berliner. Any discussion? I don't see any. All those in favor of the action to approve the
31 request for withdrawal without prejudice of Local Map Amendment G-823, please raise
32 your hand. And that is Councilmember Elrich, Councilmember Trachtenberg,
33 Councilmember Floreen, myself, Council Vice President Berliner, Councilmember Knapp,
34 Councilmember Ervin, and Councilmember Leventhal. I think, right? OK. Unanimous. All
35 right. Next item is item 10, consideration of Hearing Examiner's report and
36 recommendation on application of the Development Plan Amendment 09-1. I'll ask if there
37 is a motion for approval.

38
39 COUNCILMEMBER TRACHTENBERG:

40 Move approval.

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1 COUNCIL PRESIDENT ANDREWS:

2 All right. Moved by Councilmember Trachtenberg. Seconded by Councilmember Ervin. All
3 right. And are there any questions or comments about this report and recommendation
4 from the Hearing Examiner? I see that the recommendation from the Planning staff,
5 Planning Board, and Hearing Examiner is for approval. Seeing no questions or comments,
6 all those in favor of the approval of the Hearing Examiner's -- Examiner's report and
7 recommendations on DPA 09-1, please raise your hand. Councilmember Elrich,
8 Councilmember Trachtenberg, Councilmember Floreen, myself, Council Vice President
9 Berliner, Councilmember Knapp, Councilmember Ervin, Councilmember Leventhal. That
10 is approved, 9-0. And our final item this morning is oral argument and consideration of the
11 Hearing Examiner's report and recommendation on application number G-878. The
12 Council agreed two or three weeks ago to have oral argument on this item, and so we will
13 proceed to do so. And I ask Mr. Zyontz to describe for everyone present how the oral
14 argument will proceed.

15
16 JEFF ZYONTZ:

17 Oral argument is something granted by the Council, and they granted that two weeks ago,
18 in this -- in this case. It allows opponents or proponents who have disagreement with the
19 Hearing Examiner to provide argument that is in the record in support of their position. In
20 this case, the opponents requested oral argument. They will go first. They have 20
21 minutes in total. The proponents also have 20 minutes. The opponents go first. There are
22 two speakers that will take up 15 minutes. The first 11 minutes will be by Mr. -- Ms.
23 Martinez. The second four minute will be by Mr. Winters. Did I --

24
25 THOMAS WILLIAMS:

26 Williams.

27
28 JEFF ZYONTZ:

29 Williams. I'm sorry. Reading too many things. They will then reserve five minutes for
30 rebuttal, with four minutes for rebuttal for Ms. Martinez and the remainder for Mr. Winters.

31
32 COUNCILMEMBER FLOREEN:

33 Williams.

34
35 JEFF ZYONTZ:

36 Williams. I'm sorry.

37
38 COUNCIL PRESIDENT ANDREWS:

39 Third time will be the charm.

40
41 JEFF ZYONTZ:

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1 They did all -- both parties requested exhibits that will show on the screen. They are all
2 from the record, and I received those exhibits from the record. The Hearing Examiner's
3 role is to determine that the oral arguments you hear are from material in the record and
4 will generally keep the opponents and proponents to the two issues that the Council
5 limited this to, which was compatibility and -- and general public interest. There is an
6 errata sheet that I think the clerk has passed out from the -- or is about to pass out from
7 the Hearing Examiner that had a -- a few things to change in the report before you.

8
9 COUNCIL PRESIDENT ANDREWS:

10 OK. Thank you very much for that description. That's helpful. And I think then we are
11 ready to begin momentarily with the oral argument from the plaintiffs, I guess, in this case.

12
13 JEFF ZYONTZ:

14 And you'll just tell me when you want to...

15
16 COUNCIL PRESIDENT ANDREWS:

17 Miss Martinez and Mr. Williams.

18
19 JEFF ZYONTZ:

20 The opponents.

21
22 COUNCIL PRESIDENT ANDREWS:

23 The opponents. Very good. So the opponents will speak first, and that will be Miss
24 Martinez and Mr. Williams.

25
26 ANNE MARIE MARTINEZ:

27 Good morning, or good afternoon, Mr. President and members of the Council, and I thank
28 you very much for this opportunity. My name is Anne Marie Martinez. I live at 18707
29 Paprika Court in Germantown, Maryland, which is known as Cinnamon Woods. There are
30 two maps here that I'd like you to look at. One is the Cinnamon Woods and the adjoining
31 areas that are presently in the -- they're presently there, and then there is the other map,
32 which shows the very, very high density of this particular proposed rezoning amendment
33 and the proposed site. Needless to say, I'm here because I totally disagree. We have, as
34 you can see, some very beautiful, older, open space, single-family attached homes. There
35 are 25 of these large fields in -- throughout Cinnamon Woods. We have -- the homes are
36 built on 77 acres. We have a swimming pool. We have tot lots scattered throughout the
37 community. We have a playground. We also have a maintenance yard, which will --
38 conforms to your newest parking regulations, where people with commercial vehicles and
39 RVs and boats can park. We've had that for a long time, but now it's getting a little bit
40 more active. This is -- this particular picture I call our Tara. This is our "Gone with the
41 Wind." This is a beautiful home. And it sits on the corner right off of Mateny of Cinnamon

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1 Drive and Thyme Court. Do we have the next slide? This is a -- this is an example of one
2 of the fields. Most -- as you can see, there are flowering trees all around, and right behind
3 those trees, right behind them, is another court. We have 17 courts. So you can see
4 where the court, which is Paprika Court, that faces this field. Right behind this field is
5 Ginger Court. So there is a lot of green space between the two courts, and this is the way
6 it is throughout our community. This is the house that faces -- that I mentioned that faces
7 the field with the mature, blooming trees. We have lots and lots of trees. And it's -- it gives
8 you an open, spacious feeling. Next one. All right. This is the first court as you're coming
9 in from Clopper Road onto Cinnamon Drive. You will see the houses way back off the
10 road and another huge field. These fields are used for kids to play soccer and baseball
11 and football and what have you. You will also see where our people, our residents park.
12 They usually park -- we have assigned parking, and most of the residents get a parking
13 space right in front of their home. Then they have two other spots. We have three parking
14 spaces per unit. Next one. All right. This is another development, but it's the one directly
15 across from Cinnamon Woods on Mateny. This is Stone Ridge, our neighbor, and
16 Cinnamon Woods and Stone Ridge are the two developments that are going to be
17 extremely negatively impacted by this rezoning and proposed site plan. Here's another
18 view of another field. I just wanted to really make a point here as to how much green
19 space we really have. OK. This is the entrance to Cinnamon Woods, again from Mateny.
20 And if you would look toward the rear, the sign is on the corner. There's a field to the left
21 of -- to my left of the sign, there's a field to my right of the sign, and right behind that is
22 some of the houses that were built in that court. OK. This is our tot -- this is an example of
23 our tot lot. The tot lots are scattered throughout the entire community -- playgrounds. We
24 have a wonderful swimming pool, and we have -- as I say, we have 77 acres and 684
25 homes. OK. That's it, right? One of the reasons why I'm adamantly opposed to this is
26 because of the density. The applicant claims that they're going to have 45% green space,
27 and they have 8.5 acres. So that means -- I'm not a mathematician, but I kind of figure
28 that's about 112 units squeezed into about 5 acres. Their green space consists of a
29 historic graveyard and storm water management site, which is not -- you can't use that for
30 a playground. You can't put picnic tables and play equipment there for children. I'm also
31 very concerned about the narrow streets that they're going to be having in this community,
32 with parking on both sides. We've already seen what that happens -- how that happens to
33 us. Transportation -- I have a huge question about the transportation study. The
34 transportation study calls for -- it says that they compare the number of trips in rush hour
35 to a fully viable shopping center. Well, in the other hand, the applicant says the shopping
36 center isn't viable. So you're not going to mitigate something that doesn't exist. The
37 parking for the shopping center is 275 spots. We have over 100 cars I've counted there.
38 The shopping center doesn't open until 9 or 10 in the morning, so there is no traffic from
39 the shopping center in the morning rush hour. Is my time up?

40
41 PHILIP TIERNEY:

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1 Your time is still good.

2
3 JEFF ZYONTZ:

4 The clerk will tell you on the time.

5
6 ANNE MARIE MARTINEZ:

7 Oh, OK. Thanks. Mr. Williams is going to delve into the shopping center a little bit more
8 than I am. I wanted to basically focus on the compatibility in our neighborhood. I guess
9 some of you can tell I'm nervous. I've never done this before. But I'm also extremely
10 passionate about my home. We have people -- people have told us, "Well, I wouldn't want
11 to live there. I wouldn't want to live with the police substation there." We live there. It's our
12 home. We love it. This, from what I can understand, was the first 100% MPDU
13 development built in Montgomery County. Every unit was MPDU. We have a diverse -- it's
14 like the UN in Cinnamon Woods, as it is in Stone Ridge and the surrounding
15 developments. The diversity -- when my husband and I bought in Cinnamon Woods, I said
16 to the real estate agent, "Do not even show me a home where everybody looks alike. I
17 want to move into a neighborhood that is completely diverse." And we have it, and I'm
18 thrilled. We have our own UN there, and one of the things I really want to emphasize with
19 the shopping center is the police substation that's there. That is where we have all of the
20 community meetings. That's where we've held National Night Out before. Sometimes we
21 hold voter registration there. It's -- that shopping center is our village, our village center,
22 and it was built when the Master Plan called for housing to have a small shopping village
23 within walking distance. We have disabled people that cannot walk a mile or a mile and a
24 half to the other two large shopping centers. And we have older people who don't have
25 cars.

26
27 PHILIP TIERNEY:

28 If you want to pass the podium. He said that you're almost out of time.

29
30 JEFF ZYONTZ:

31 You still have time.

32
33 ANNE MARIE MARTINEZ:

34 I'm out of time. Oh, OK.

35
36 JEFF ZYONTZ:

37 You still have time.

38
39 PHILIP TIERNEY:

40 OK.



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1 ANNE MARIE MARTINEZ:

2 OK. I'm sorry. Another thing, too, we have a lot of Latino families. We have Indian families.
3 We have African-American families. And many of these families, the pop works, the dad
4 works, and the mom stays home and takes care of the kids. And it's kind of neat to see
5 these moms with their strollers and bringing the kids to the grocery store in the middle of
6 the day or something. That's how they get their groceries. Mom doesn't have a car
7 because dad has to go to work. And the seniors do that. People in scooters -- the disabled
8 in scooters, they do that. We just frankly don't want this here. We have no -- nothing
9 against the applicant and all of the people that work for the applicant, but we just don't
10 want this here. We don't want 112 units squeezed into just 5 acres of land, with no
11 recreational green space. Thank you. I'm going to turn it over to you.
12

13 THOMAS WILLIAMS:

14 OK. Good afternoon, Council President, Council. My name is Thomas C. Williams, Jr. I
15 live at 12871 Sage Terrace in Germantown. That is known as Cinnamon Woods. I'm going
16 to speak to the public interest that is served by the proposed project, and first I want to
17 talk about the interest as it is written in the summary. Now, as far as the storm water
18 management facilities, that's fine. We'll take that as a given. The elimination of the
19 Clopper Road access -- we'll take that as a given, also. When it comes to discussing the --
20 how this proposal will reduce the impervious surface and allow for the introduction of a
21 tree canopy -- well, if you add up all the sidewalks and driveways that they're going to put
22 in here, you know, I'm curious as to what the total impervious surface amount is going to
23 be, and how does that compare with what we have already. They talk about green space.
24 Now, if they have a 45% green space requirement, that amounts to about 3.8 acres. I'm
25 curious as to the green space that we currently have -- how does that measure up?
26 There's no numbers on what we have, but we have -- that shopping center has quite a bit
27 of green space as it stands right now. The introduction of housing that will allow for more
28 diversity -- I think Ms. Martinez said it all. I mean, we have a United Nations in our
29 community already. This is not going to bring us anything that we don't have already.
30 There's no benefit there. And as far as affordability is concerned, again, as Ms. Martinez
31 mentioned, you know, we had the first 100% MPDU housing development in the area. As
32 far as what they're referring to, there has been no talk about price tags of these homes
33 that are going to be developed, so we don't know if they're going to be affordable. So I'm
34 curious as to how they can put that in a report. As far as the preservation and the
35 perpetual maintenance of the historic cemetery, well, that can be done under either
36 circumstance. As far as being able to fulfill the goal of what I, in my personal opinion,
37 consider an outdated Master Plan from 20 years ago -- this has not taken into effect or
38 taken into consideration that we now have a diverse community. Cinnamon Woods, where
39 we live, is approximately 50% or more Latino. The supermarket currently has -- is owned
40 by Koreans. There is a beer and wine store that is owned by an Indian family. There is a
41 dry cleaner that is owned by a Chinese family. Just the mere coincidence of Ms. Martinez

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1 and myself here demonstrates the amount of ethnic diversity that we have in the
2 community already. Let's talk about what this proposal will do, OK? It will eliminate the
3 ethnic international market which currently complements those two larger shopping
4 centers that we have. It will eliminate the existing diversity of the shopping center, as I
5 mentioned before. It will eliminate the retail center which serves a community which has
6 an increased Latino population. As I said, Cinnamon Woods is over 50%. And there's a
7 large Latino population throughout most of the area. It will force residents who do not drive
8 to incur additional transportation cost to get to the other markets. Considering where we
9 are in the budget crunch, I don't think we want to start looking at providing transportation
10 subsidies so that we can alleviate their situation. It will eliminate, kill, dozens of jobs of
11 people who work in the shopping center. It will force those business owners into a dead-
12 end situation. If this project is approved, they will not be able to get out. They can't sell
13 their business because there will be an uncertainty -- who will buy it? It's just a matter of
14 time.

15
16 ANNE MARIE MARTINEZ:

17 Your time is up.

18
19 COUNCIL PRESIDENT ANDREWS:

20 All right. OK. All right. Thank you, Miss Martinez and Mr. Williams. You'll have five minutes
21 left for rebuttal, if you choose to use it, after the proponents speak. And I'll ask them now
22 to come to the table. And they have up to 20 minutes, and we'll find out how they're
23 dividing their time. Let's see. We may need --

24
25 JEFF ZYONTZ:

26 It would be easier if you move back.

27
28 COUNCIL PRESIDENT ANDREWS:

29 OK. Yeah. I think just because of the placement of the diagrams, if Mr. Williams and Miss
30 Martinez can move to the front row there for the time being, that would be good. Thank
31 you. OK. How is -- this may have been mentioned. If I did, I apologize, but had you
32 decided how to divide your time up?

33
34 CINDY BAR:

35 I'm going to take about 18 minutes for this presentation.

36
37 COUNCIL PRESIDENT ANDREWS:

38 OK.

39
40 JEFF ZYONTZ:

41 I'm sorry. They get 20 minutes straight. They don't get the rebuttal.

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1
2 COUNCIL PRESIDENT ANDREWS:

3 OK. All right. I'm reminded of that. OK. So...

4
5 CINDY BAR:

6 Then we'll take all the time.

7
8 COUNCIL PRESIDENT ANDREWS:

9 Very well. I would have done -- I'd make the same choice, I think, under the
10 circumstances.

11
12 COUNCILMEMBER FLOREEN:

13 Press your button.

14
15 COUNCIL PRESIDENT ANDREWS:

16 All right. So you have 20 minutes. Go ahead and proceed, please.

17
18 CINDY BAR:

19 Good afternoon. Cindy Bar of Holland & Knight, representing the applicant, Germantown
20 Park, LLC. I am here with one of the owners of the site, David Fink, of Finmarc
21 Management, and Kevin Foster of Gutschick, Little & Weber, the land planner for the
22 project, and Ed Papazian of Kimley-Horn, the traffic consultant. This case represents a
23 somewhat different twist on an old theme. A request to the District Council to establish a
24 change in the land use for the site is not unusual. The different twist in this case is that the
25 owners are requesting the rezoning of a C-1 retail shopping center to the RT-15
26 townhouse zone. A request to effectively downgrade a site from a commercial to
27 residential use is relatively uncommon. Typically, from the owner's standpoint, the best
28 use of the site, and thus the more lucrative, would be as a retail shopping center.
29 However, this case presents a phenomenon that you as the Council will be increasingly
30 faced with -- what is the appropriate use for the redevelopment of a functionally obsolete
31 and incompatible small retail strip center? A review of the history of the site provides some
32 illumination regarding this rezoning request. Finmarc purchased the site in 2005 and relied
33 on their over 20-year history of developing and managing retail shopping centers in
34 Montgomery County to add value to the Germantown property and enhance the shopping
35 center shopping experience for the immediately surrounding neighborhood. Finmarc
36 currently owns and/or manages approximately 6 million square feet of predominantly retail
37 space in and around the DC metropolitan area. Some of their most successful centers in
38 Montgomery County are the new Harris Teeter Center in Darnestown, the Trader Joe's
39 Shopping Center on Colesville Road between Four Corners and White Oak, and The
40 Shoppes of Olney and Silo Inn site, which houses the Roots Market, both of which are in
41 Olney. David Fink of Finmarc testified at the hearing that at the time this property was



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1 purchased in 2005, Finmarc believed that they could not only manage the property better
2 than the prior owner, but hoped to expand the shopping center because it was
3 underperforming by utilizing the approximately 15,000 square feet of undeveloped density
4 on the site. Finmarc attempted to find a more successful new anchor tenant for the failing
5 large grocery store space, formerly a Weis Market, and had a plan to add smaller stores
6 to create a more vibrant boutique-type shopping center. Mr. Fink testified that
7 unfortunately, despite their marketing efforts, there was no interest in the site from a new
8 anchor, and they had no real interest from a clothing or toy store or other hard-goods
9 stores like the Radio Shack. Finmarc believed that these type of stores were essential
10 elements for the long-term success of the shopping center, and without them, the property
11 would not be ultimately successful. Due to lack of interest, it soon became clear that they
12 had underestimated the retail shortcomings of the site. In particular, the site does not have
13 good visibility from Clopper Road. In addition, the competition of two close-by village
14 centers, anchored by major grocery stores, which are Clopper Village and Kingsview
15 Village, has been more problematic than originally anticipated. These two centers, located
16 less than a mile from the site, are approximately 150,000 square feet in size, compared to
17 the 46,000-square-foot Germantown Park shopping center. They offer a wide variety of
18 goods and services that Germantown Park cannot offer, even if expanded. Additionally,
19 with all the emphasis on improving Germantown Center, more and more shoppers are
20 being drawn to that area and are util -- are less utilizing Germantown Park. This is in
21 keeping with the Master Plan's goal for Germantown and the desire for the Town Center
22 to be successful, but it has further undermined the prospect that Germantown Park can be
23 successful. Finmarc's expectation that a smaller, boutique-type center could be successful
24 at this location was unfounded. They therefore started to utilize alternative sites --
25 alternative uses for the site. They hired GLW to analyze different options for redeveloping
26 the site, including mixed-use and higher-density housing. Ultimately, the development
27 team concluded that because of compatibility issues, zoning constraints, and traffic
28 concerns, the most appropriate reuse of the site would be a townhouse development in
29 scale with the adjacent properties. You have heard today from Ms. Martinez and some
30 members of the nearby community who oppose the rezoning. Some residents of the
31 adjacent community utilize the center and find it convenient for a portion of their shopping.
32 It has been part of their community for many years, and they want it to stay. They contend
33 that the owner should just try harder and make it successful. In response to this, I would
34 like to point out several things. The first is Mr. Fink's testimony itself. He and his partner
35 have been developing successful shopping centers in the County for over 20 years. They
36 believed that the center had potential but ultimately could not find an anchor and better
37 tenant mix to make it financially viable. Mr. Fink testified that the existing tenants are
38 behind in their rent, and Finmarc is concerned that the center could go dark. He testified
39 that they intended to, and would have preferred to, redevelop the center, like they did the
40 Shoppes of Olney, the Silo Inn, Trader Joe's, and Harris Teeter, but could not accomplish
41 this. Although retail is typically a more lucrative option for land, this is only the case if the

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1 retail center can be successfully marketed, leased, and operated. While Finmarc has
2 achieved these goals at other locations, they could not achieve this goal with the
3 Germantown Park Center. Mr. Fink testified that they do not currently have a plan to close
4 the center, but they need to protect their investment in the site. With the real prospect that
5 the center could go dark, they need to have an alternative option. The residential
6 townhouse proposal before you gives them this. I would like to remind the Council of Mr.
7 Tierney's conclusion on this issue, contained in his report. Mr. Tierney considered Mr.
8 Fink's testimony and that of the opposition regarding the viability of the center. He
9 concluded that, "The opposition claims center has a market that would grow if the
10 applicant better promoted it. However, the applicant is in the best position to assess the
11 financial viability of the center, given its experience in retail property management and its
12 self-interest in making the center work. For these reasons, greater weight must be
13 accorded to the applicant's evidence on the center's viability." We think that Mr. Tierney
14 has properly evaluated the evidence on this point. Finmarc's own testimony regarding its
15 experience with, and its lack of success regarding, the center is convincing. The applicant
16 persuaded the Hearing Examiner by a preponderance of the evidence that the shopping
17 center is not viable, and the Hearing Examiner further recognized that an abandoned
18 shopping center is not in the public interest. The opposition also advanced an argument
19 that some of the residents in the adjacent community rely on the center, and therefore, the
20 community needs it to remain in place. On page 40 of his report, the Hearing Examiner
21 addresses the opposition's argument on need. As Mr. Tierney points out, "No need
22 analysis is required to approve the location of the RT-15 Zone. He concludes, "Need is not
23 a relevant factor to evaluate the appropriateness of the proposal. Even if need was a
24 requirement, the evidence is clear that ample shopping facilities are in the area, and the
25 competition from these facilities is one of the reasons the existing center has not done
26 well -- as well as expected." While agreeing that need for either the shopping center, or,
27 for that matter, the need for a townhouse development, is not a legal requirement of the
28 rezoning, it is also true that the ordinance requires a finding that the proposal be in the
29 public interest. Although the object of the inquiry regarding the public interest is the
30 townhouse development which is being proposed, this inquiry could include consideration
31 of what is being lost at the site. However, even if one analyzes the case from that
32 perspective, the conclusion is the same. There is no persuasive evidence that what is
33 being lost here is in the public interest because, given the strong testimony regarding --
34 and evidence regarding the tenuous financial position of the center, it will continue to
35 deteriorate and may go out of business completely. This is certainly not in the public
36 interest. I've used much of my time to discuss the existing shopping center because this is
37 a concern to some in the community, and hence, I am sure, to the Council. However, your
38 decision on the rezoning request obviously must be based on whether the townhouse
39 proposal before you meets the required legal elements. As was demonstrated at the
40 hearing and was agreed to by the Planning Board staff, the Planning Board, and the
41 Hearing Examiner, the proposed rezoning meets the ordinance requirements by a

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1 preponderance of the evidence. The ordinance requires a finding by the Council that the
2 proposal meets the purpose clause of the RT Zone, meets the development standards of
3 the RT-15 Zone, is compatible with the defined neighborhood, and is in the public interest.
4 There are three ways that the proposal can meet the purpose clause of the RT Zone. One
5 is as a buffer or transitional use. The second is if there is a Master or Sector Plan
6 recommendation for the RT Zone. The third way that an applicant can meet the purpose
7 clause is if it's determined that the proposal is "appropriate for development at the location
8 and density sought." In this case, we demonstrated that this proposal meets the third
9 criteria. The Planning Board staff, Planning Board, and Hearing Examiner also concluded
10 that the schematic development plan, with the binding elements, resulted in a
11 development appropriate at this location at the density sought. I think it's instructive to
12 utilize the exhibit which Mr. Foster used in giving his testimony to demonstrate that the
13 proposal is appropriate at the density sought at this location. This appears on the screen.
14 The property which is the subject of this rezoning request is located at the northeast
15 corner of the intersection of Clopper and Mateny and is shown in red. It is adjacent to the
16 Stone Ridge townhouse community, which is located across Mateny and is developed at
17 12.6 dwelling units per acre. The Williamsburg Square townhouse community, which is
18 developed at 12.3 dwelling units per acre, is across Clopper, to the south. And the
19 Cinnamon Woods community, to the north, which has an overall density of 8.5 dwelling
20 units per acre -- but as noted by Mr. Foster, has a section across Cinnamon Drive from
21 the site with a density of 11.8 dwelling units per acre. The 7-Eleven is located to the south,
22 across Clopper Road, and further to the south and east is Seneca Creek State Park. Mr.
23 Foster gave testimony that at approximately one dwelling unit an acre more than the
24 directly adjacent townhouse communities, the proposed density of 13.2 units per acre was
25 appropriate at this location. He also concluded that the proposal provides a buffer
26 between the adjacent 7-Eleven commercial and the residential development to the north
27 and therefore meets this purpose clause. The Hearing Examiner was persuaded by this
28 analysis and concluded, on page 40 of his report, "The appropriate standard is usually
29 measured by density -- that is, whether or not the proposed density is a good fit in the
30 particular neighborhood." The subject property is located in a section of the County that is
31 appropriate for residential density -- residential development at the RT-15 density. Mr.
32 Tierney noted that the subdivision to the west of the site was developed at a density of
33 12.6 dwelling units, and the subdivision to the southwest of the site was developed at
34 12.3, and that the Cinnamon Woods, located to the north and west, was developed at a
35 density of 8.2. He concluded, "The type of residential unit at the density proposed is
36 entirely consistent with the surrounding area, given the commitment to maximum density
37 limit of 13.2 dwelling units an acre and a provision for a minimum of 45% green space.
38 The site meets the appropriate standard because it's -- because of its location,
39 relationship to, and compatibility with the surrounding townhouse developments." Let's
40 move to compatibility. This is a floating zone application, so we must show the proposal is
41 compatible with the neighborhood. Compatibility does not mean copying. In order to be

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1 compatible to an adjacent land use, the proposed land use, including elements such as
2 density, massing, and green area, does not need to be a replication of the adjacent
3 development. As obvious as this sounds -- and can be observed as we drive around the
4 County -- it bears repeating. Mr. Foster, an expert in land planning, testified extensively at
5 the hearing that the proposal was compatible with the adjacent land uses. He based this
6 on a number of factors. He noted that the proposed density, at about one unit per acre
7 more than the directly adjacent townhouse communities, was compatible. He testified that
8 while a density in the RT-15 could be up to 18.3 units per acre, in this case, the applicant
9 has limited the density to 13.2. Another aspect of the proposal which led to his conclusion
10 regarding compatibility was that although the required green area requirement is only 30%
11 in the zone, the applicant has committed through a binding element to a 45% green area
12 on the site. This is the same as required for the adjacent RT communities with the
13 inclusion of MPDUs. Mr. Foster described the central green area, which will serve the
14 community, and the pedestrian connections which will be made to the area's sidewalks.
15 He opined that the proposed massing of the townhouses is compatible with the adjacent
16 townhouse communities at Stone Ridge and Williamsburg Square, which have two- and
17 three-story townhomes, mostly without garages. He notes that the proposed townhomes
18 have been oriented with their fronts toward the existing streets to reinforce their
19 integration with the adjacent community and create a pedestrian-scale connective system
20 along the street. This is intended to link the residents to the adjacent communities and the
21 bus service available along the Mateny and Clopper Road. He reviewed the zoning
22 ordinance standards and found that -- that the -- the proposal meets or exceeds the RT-15
23 requirements. In his report, on pages 41 and 42, the Hearing Examiner concludes that the
24 proposal is compatible with the community. While he takes note of the opposition's
25 concern regarding the relative openness of the proposal compared to the adjacent
26 community, he states, "While there are differences in density and character, the applicant
27 has moderated the differences with binding elements of the SDP relating to green space,
28 setbacks, density, and parking." He also notes -- finds that the proposal will function as a
29 buffer between the convenience store and gas station and nearby residential areas. He
30 finds that the proposed development is in scale with the surrounding development, as
31 illustrated by the findings of fact. He states that the proposed development will be
32 compatible with the existing community because the proposed townhomes will provide for
33 substantial green space, density limitations, setbacks, parking, and notes also that the
34 technical staff of the Planning Board made these same findings. Finally, let's move back to
35 the public interest. We have discussed this previously with a focus on the existing
36 shopping center. Now let's focus on the proposed townhouse community. In determining
37 the public interest, the District Council looks at Master Plan conformity, Planning Board
38 and Planning Board staff recommendations, impact on public facilities, the environmental
39 impact of a proposal, and the public policy goals that are served. Again, as we
40 demonstrated through testimony of expert witnesses and in the reports and other exhibits,
41 the proposal will be in the public interest. The Planning Board staff and Planning Board

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1 recommended approval. There was ample testimony and evidence in the record as to
2 Master Plan conformity. This included findings of fact that the proposal will increase the
3 County's housing stock, eliminate a strip commercial retail development along a roadway
4 in Germantown, improve Clopper Road by deleting an entrance from the site and
5 providing enhanced landscaping along the roadway, strengthen the visual character of the
6 existing neighborhoods, improve the environment with a much improved storm water
7 management facility and added tree canopy, and preserve historic resource in the Graff -
8 Musser Cemetery. In addition, Mr. Foster testified that locating residential near existing
9 bus service and existing public facilities represents smart growth. There was also
10 persuasive testimony that the proposal will be adequately served by public facilities.
11 These include transportation, water and sewer service, schools, and other services, such
12 as fire and utilities. The transportation analysis included a finding that overall, the A.M.
13 peak-hour traffic would be reduced by about 40% and the P.M. by about 84%, based on a
14 comparison to a successful, fully functioning shopping center, and that all but one of the
15 affected intersections would operate at an improved level of service with the proposal.
16 Some mitigation will be required. The elementary school is projected to have an
17 enrollment of -- at 105% and will therefore require a school facilities payment. However,
18 as Mr. Tierney concluded, the public facilities appear to be adequate and the detailed APF
19 evaluation that will be conducted during the preliminary plan process, applying the
20 appropriate provisions of the annual growth policy and the adequate public facilities
21 ordinance, made him even stronger in this finding -- finding. The Hearing Examiner
22 concluded on page 43 of his report that as to the public interest, the evidence is clear that
23 the zoning is consistent with the 1989 Master Plan, meets the requirements of the zone, is
24 compatible with surrounding land uses, and will better serve the public interest than the
25 current use. The applicant has demonstrated with clear, convincing evidence that the
26 proposed RT-15 townhouse project meets the purpose clause and developments of the --
27 and development standards of the RT-15 Zone, is compatible with the defined adjacent
28 neighborhood, and is in the public interest, and therefore should be approved. We
29 respectfully request that the District Council adopt the recommendation of the Hearing
30 Examiner and approve the requested rezoning. Thank you.

31
32 COUNCIL PRESIDENT ANDREWS:

33 Thank you, Miss Bar. All right. And is that -- does that -- no. We have two others. Very
34 good. OK. Welcome back, and I believe you've set aside four minutes, Miss Martinez, for
35 rebuttal and, Mr. Williams, a minute. OK.

36
37 ANNE MARIE MARTINEZ:

38 One thing I want to point out very quickly is the schools. We saved this -- the best for last.
39 We know that that Clopper Mill Elementary is well overcrowded. It already has five trailers.
40 It's probably now, if not sooner, will be up to 120% capacity. The Hearing Examiner put a
41 footnote, number 7 on page 25, pertaining to the growth policy that requires imposition of

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1 a moratorium on residential subdivisions for the upcoming fiscal year based on the
2 overcrowding of the schools. We've been also informed, right or wrong, that Northwest
3 High School is going to be taking on at least 50% of the students at Seneca Valley due to
4 the renovation of Seneca Valley High School. The middle school --

5
6 PHILIP TIERNEY:

7 Mr. President, I don't think that's in the record.

8
9 COUNCILMEMBER FLOREEN:

10 Turn your mike on.

11
12 COUNCIL PRESIDENT ANDREWS:

13 Mr. Tierney, go ahead.

14
15 COUNCILMEMBER FLOREEN:

16 Press your button.

17
18 COUNCIL PRESIDENT ANDREWS:

19 There's a button the left side.

20
21 PHILIP TIERNEY:

22 OK. Apologize for interrupting, but the -- the business of Northwest taking on some of
23 Seneca Valley is -- is not in the record. We do have -- we took official notice of the recent
24 technical staff and Planning Board growth policy memorandum, and that is a -- is a
25 situation. The area on which this property is located is governed by 120% -- that's the
26 level, and they're very close. They're on the cusp of moratorium. But it's not there yet, and
27 so the matter that Miss Martinez just referenced is not in the record and shouldn't be
28 considered by District Council at this time.

29
30 COUNCIL PRESIDENT ANDREWS:

31 OK. Thank you for the clarification.

32
33 ANNE MARIE MARTINEZ:

34 Thank you. Anyway, Clopper Mill Elementary School now has five trailers. It's a very small
35 school. All the money in the world is only going to buy a couple more trailers and crowd it
36 even more. The only middle school that would serve our community is a magnet school,
37 Roberto Clemente, and there is a long waiting list, and those students are chosen by a
38 lottery. I wanted to mention our police substation again and remind you that this is our
39 community center. This is where we meet. We also have -- many of us have community
40 rooms, but for the entire community, we meet at the substation. There is no plans that we
41 can see for a swimming pool or any recreation facilities, and the green space in the

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1 proposed rezoning plan is a graveyard -- a very historic graveyard, I might say, probably
2 the first graveyard in the County that allowed African-Americans and Caucasians to be
3 buried side by side -- and then the storm water management site, none of which could
4 really be used as recreation to the children. And one more last thing I want to say -- we
5 don't agree with the Board of Education's number, and it's way underestimated. When you
6 have 112 townhouses, three-story, you're not going to have elderly moving in there.
7 You're not going to have the disabled moving in there. You're going to have young
8 families moving in there, and those young families have children, and they're going to be
9 going to schools. And that's one of the things I really wanted to bring out. We -- our streets
10 are very, very narrow. You figure 220, 230 more cars for 112 units, and that's being
11 conservative, would really crowd our streets and cause even more gridlock than we
12 already have. And as far as transportation goes, yes, there is transportation up and down
13 Clopper Road, but the transportation on Mateny is five days a week -- two hours in the
14 morning or three hours in the morning and two or three in the afternoon. Nothing on the
15 weekends. The -- the mitigation of the trips. We can't mitigate nothing, and there is
16 nothing that comes from that shopping center in the mornings during rush hour. It's us. It's
17 the people that live in the community. There's no way you can mitigate, but you can add
18 maybe 100, 200 trips. OK. Thank you. I do want to ask that this be denied, please, or at
19 least remanded back to the Hearing Examiner.

20
21 COUNCIL PRESIDENT ANDREWS:

22 OK. Mr. Williams.

23
24 THOMAS WILLIAMS:

25 OK. The center was purchased by the LLC in 2005, and schematics that were on file show
26 that they made plans to start making changes right after purchasing the center. This is not
27 something that demonstrates any evidence that they gave it a go. Mr. Fink is a -- he's a
28 very fine man, but with all due respect, with 20 years of experience, this is something
29 where perhaps he made a business mistake in terms of what he wants to do. Now he
30 wants to upset the apple cart. We suggest there are other options. Leave it as it is, sell it
31 to another management company who is willing to give it a go.

32
33 COUNCIL PRESIDENT ANDREWS:

34 Thank you, Mr. Williams. And that concludes the presentations by the opponents and
35 proponents, and now we'll turn to questions for or comments from Councilmembers.
36 Councilmember Elrich, and then Councilmember Leventhal.

37
38 COUNCILMEMBER ELRICH:

39 You said that the applicant had something on file or a plan that goes back to when they
40 first purchased the property?

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1 THOMAS WILLIAMS:

2 When I first came to look at the records, the schematics that were on file were dated
3 2005. I thought it odd, since the closing, according to tax records, took place in the same
4 year. Now, my understanding is, is that those schematics have been updated, so what is
5 on file now may have different dates on them.

6
7 COUNCILMEMBER ELRICH:

8 And the original schematic showed a conversion to a residential complex?
9

10 THOMAS WILLIAMS:

11 That is correct.
12

13 COUNCILMEMBER ELRICH:

14 Interesting. What mitigation did Park and Planning propose -- traffic mitigation? What's
15 their idea of traffic mitigation here?
16

17 CINDY BAR:

18 I can call Ed Papazian up, because he may be able to answer more specifics, but there --
19 as I think the Council is aware, there are a number of possibilities for a mitigation that are
20 in the annual growth policy, and at times --
21

22 PHILIP TIERNEY:

23 Mr. President. I just want to raise this.
24

25 COUNCIL PRESIDENT ANDREWS:

26 Go ahead.
27

28 PHILIP TIERNEY:

29 I don't think it's a good precedent for the Council to hear the witnesses that testified. They
30 may be asked questions. I think the issue of traffic is in the report, and I'm just flipping
31 through it now and trying to find where it is.
32

33 COUNCILMEMBER ELRICH:

34 I tried to find the mitigation report. What I found was that it could be dealt with by
35 mitigation, but I -- maybe I missed it, but I missed the mitigation they're going to use, and
36 as far as what Park and Planning requires in mitigation, I mean, there's an existing memo
37 for Park and Planning that says they know that the mitigation that they accept takes no
38 cars off the road, so the value of mitigation to me is worthless.
39

40 PHILIP TIERNEY:

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1 The....the... on page 41, circle 41, of the Hearing Examiner's report, we have a discussion
2 of the -- beginning of a discussion about this. The mitigation on circle 42, second full
3 paragraph -- I should say first full paragraph -- talks about involving 49 trips that will be
4 eliminated through better promotion of transit use, safer pedestrian circulation, and other
5 trip-generation strategies, which are contained in Mr. Papazian's report. Off the top of my
6 head, I don't remember what those strategies are, but they -- the staff and Mr. Papazian
7 both concluded that these would be satisfactory mitigation efforts to reduce the trip. We
8 did recognize that part of Mr. Papazian's report probably was overstated, and as Miss
9 Martinez brought up, the shopping center being included as background traffic was
10 somewhat questionable because it's not operating as a fully endowed shopping center. It's
11 -- the aerial photographs and other evidence of record show that the parking lot is not full,
12 and so that they are -- the shopping center is operating at a reduced level of effort. I don't
13 want to get into the viability issue, because that's really not an issue that you would
14 consider. The parties raised it as an issue, but it's not a zoning issue, and it's not
15 discussed in the zoning issues in the report. But I think he has -- Mr. Papazian has
16 identified sufficiently that mitigation can occur at the subdivision stage, and he has
17 identified what that will be. It'll be more transit, safer pedestrian circulation, and -- and the
18 other strategies that they use.

19
20 COUNCILMEMBER ELRICH:

21 I stand by my comment that Park and Planning has said, as recently as the last growth
22 policy, that they know their mitigation takes no vehicles off the road. It does not have the
23 effect they claim it has. So you -- it's hypothetical mitigation, but it doesn't translate to
24 mitigation in the real world. My question for you is -- I mean, you've -- you weighed the
25 applicant's concern about trying to make the center viable. Were you aware that they had
26 a -- that they had a plan filed as early as that?

27
28 PHILIP TIERNEY:

29 Mr. Williams did mention that in the hearing. The -- all the discussion about viability -- I
30 was struggling with -- with the issue as to why this was brought up, why it was -- the
31 applicant initially made it an issue, and then the opposition responded to it, and they
32 ended up on opposite sides, the applicant arguing that he doesn't think it's viable, but he
33 didn't go that far. He's -- on circle 46, the applicant's position on viability, I think, is
34 encapsulated in the last sentence on the first full paragraph. It says, "Community support
35 for the stores is not strong enough to make the center a viable operation for much longer,"
36 so I think what he's saying is that this is a potential problem for the applicant -- that it may
37 not be viable, but it's viable today. And so you -- you've got an issue here that has been
38 presented, but I don't think it -- the evidence in record is sufficient enough to make any
39 real resolution of the viability issue. It's something that was put forth as an explanation as
40 to why the applicant is seeking to down-zone this property, and I think he's met that
41 explanation. It does satisfy people's curiosity as to why somebody would come in and ask

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1 for a down-zoning when under normal circumstances, the commercial property, zoned
2 property, would be much more valuable. But it is an issue for them. Their expectations
3 have not been met, that's clear, in terms of the revenues they're looking for, but there was
4 no evidence put out that they're actually losing money on this. It's -- but it's a potential
5 money loser, and that's where -- I think the evidence rests, that it's not -- it's just a
6 potential viability problem.

7
8 COUNCILMEMBER ELRICH:

9 OK. My last question. The -- the residents have asserted that they don't believe the trip
10 generate -- I mean, the school generation numbers, and I'm inclined to agree, but do you
11 have any -- since you're from similar developments, was any evidence introduced about
12 the number of students generated from the existing townhouses that might indicate that
13 the numbers used by the school system are incorrect?

14
15 PHILIP TIERNEY:

16 Yeah. We didn't have any comparative evidence that was submitted. We -- I think the
17 schools are a problem, based on the growth policy memorandum that the Planning Board
18 or the technical staff circulated on June 2. They -- they specify the clusters that are
19 adversely affected by development, and rule that several are in moratorium. This
20 particular project is in an area that's shared between two clusters. It's sort of interesting
21 that the Roberto Clemente Middle School is shared by both the Northwest and the Seneca
22 Valley. This falls into Northwest, so the elementary school and the high school are
23 governed by the Northwest capacity, and they're right at 120, which would -- it's not
24 moratorium, but it's close. Seneca Valley, of course, is in moratorium. They're -- they're
25 listed at 121. So it's a tough call, but my recommendation was to approve it with the
26 understanding that at subdivision, the school issue was going to be looked at again by the
27 Planning Board, and there's a possibility that the capacity situation could get worse, or it
28 might get better. The -- but it's something -- we concluded in our report that the evidence
29 at this point is -- is not strong enough to support denial of the application. An otherwise
30 meritorious application is -- is -- the evidence is not strong enough to support denial.

31
32 COUNCILMEMBER ELRICH:

33 So --

34
35 PHILIP TIERNEY:

36 On the issue of schools. There are other issues that Council is free to look at. You're not
37 required to approve the application. You could disagree with the balancing of public
38 interest factors and come up with a different conclusion on that than the Hearing Examiner
39 has. You could also look at the issue of compatibility and come up with a different
40 conclusion. It -- this has been a tough case, and the evidence is very close on both sides,

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1 but on balance, I think it's better to move it along and let the processes that the Council
2 has set up to review adequate public facilities take over.

3
4 COUNCILMEMBER ELRICH:

5 If the opponent had any knowledge to the contrary, can they tell me that now?

6
7 PHILIP TIERNEY:

8 Not if they're going to get into new facts. If there's something that has been brought up, it's
9 in the record, they can certainly --

10
11 COUNCILMEMBER ELRICH:

12 Well, if they -- I mean, I guess -- this is the part about these hearings that drives me crazy.
13 If they asserted that they don't believe that the Park -- the school system's student-
14 generation numbers, can they tell me why they don't believe them? I mean, if they have
15 something concrete, can they say, "We don't believe it because we found this?"

16
17 JEFF ZYONTZ:

18 Only if it's in the record. If I may, one of your choices, if you need more facts to come to a
19 conclusion, is to remand for those facts.

20
21 PHILIP TIERNEY:

22 There are two issues here where the opposition has strenuously opposed the
23 development. One is traffic, and one is the schools, but there's no contradictory evidence
24 submitted by the -- by the opposition. They didn't submit a traffic study to offset Mr.
25 Papazian's study, and they didn't submit -- they simply took the position that schools are --
26 they believe they're overcrowded and the numbers aren't adequate, but we don't have any
27 comparative evidence that was submitted on that point.

28
29 COUNCILMEMBER ELRICH:

30 OK.

31
32 COUNCIL PRESIDENT ANDREWS:

33 OK. Thank you, Councilmember Elrich. And just a procedural issue. What I hear you
34 saying, Mr. Tierney, is that, from a procedural point of view, questions about your report
35 should be at least first directed to you, in terms of -- if other Councilmembers have
36 questions.

37
38 PHILIP TIERNEY:

39 Oh, sure. Be happy to answer any questions.

40
41 COUNCIL PRESIDENT ANDREWS:

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1 And then we'll see -- and then you can advise us as to what additional information might --
2 might be available. OK. Councilmember Leventhal is next, then Councilmember Knapp.

3
4 COUNCILMEMBER LEVENTHAL:

5 Does the record provide any information about what vacancies are now in the shopping
6 center?

7
8 PHILIP TIERNEY:

9 I'm sorry. I was distracted.

10
11 COUNCILMEMBER LEVENTHAL:

12 Does the record provide information about whether stores in the shopping center are
13 vacant today?

14
15 PHILIP TIERNEY:

16 I don't think there are any stores vacant. I think they're all functioning. I took a site visit
17 there in April, and they all looked open to me, and the parking lot was pretty much full.

18
19 COUNCILMEMBER LEVENTHAL:

20 And does the record provide information as to whether the tenants are current in their
21 rents?

22
23 PHILIP TIERNEY:

24 I heard that argued this morning, and the record -- there was a matter in the record where
25 there was some problem with the payment of rent, and I think the applicant had agreed to
26 work out a new rental agreement that allowed them to stay and continue.

27
28 COUNCILMEMBER LEVENTHAL:

29 I'm trying to understand what is the definition of a successful shopping center. If you have
30 a piece of property that's zoned commercial now and there are not vacancies -- I guess it
31 might not be successful if the tenants were not able to pay their rent, but how is success
32 defined? We heard a couple of times asserted that the shopping center was not
33 successful. I'm not sure what that means. What is success?

34
35 PHILIP TIERNEY:

36 Yeah. I-- the word they were using was viable or not viable, and --

37
38 COUNCILMEMBER LEVENTHAL:

39 Well, viability -- whether it's success or whether it's viability, what's the definition of that? If
40 there aren't vacancies and if the tenants are current on their rent, then what -- how is it
41 determined that it's not viable?

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1
2 PHILIP TIERNEY:

3 It's not. It's -- the shopping center is operating, and it appears to be -- it may not be
4 operating at the level that the applicant anticipated when they bought the property, and it -
5 - there are other market factors that have sort of diminished what would happen at that
6 site.

7
8 COUNCILMEMBER LEVENTHAL:

9 But from the standpoint of -- from the standpoint of a property owner, one has spaces, and
10 they rent them, and the rent is paid. Why is that not viable? I don't understand.

11
12 PHILIP TIERNEY:

13 I didn't say it was not viable.

14
15 COUNCILMEMBER LEVENTHAL:

16 If they were vacant -- OK. Well, the assertion was made that the shopping center is not
17 viable. That's why the applicant wants to change the zoning and go to townhouses.

18
19 PHILIP TIERNEY:

20 Well, I don't think he -- I just quoted the section in his testimony that said that it's -- it's --
21 "community support of the stores is not strong enough to make the center a viable
22 operation for much longer." So they're not saying it's not viable. They're saying that --

23
24 COUNCILMEMBER LEVENTHAL:

25 They're anticipating in the future there might be vacancies.

26
27 PHILIP TIERNEY:

28 They're anticipating future non-viability.

29
30 COUNCILMEMBER LEVENTHAL:

31 Does the applicant want to speak to that?

32
33 CINDY BAR:

34 Yes. Mr. Fink testified at the hearing.

35
36 COUNCIL PRESIDENT ANDREWS:

37 It has to be related -- it has to be information that's already in the record. Correct, Mr.
38 Tierney?

39
40 CINDY BAR:

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1 Yes. There is -- there is information in the record, if you review the -- the transcript of the
2 proceedings. Mr. Fink --

3
4 COUNCILMEMBER LEVENTHAL:
5 Can you direct me to a page number?

6
7 CINDY BAR:
8 That will take a second.

9
10 COUNCILMEMBER LEVENTHAL:
11 We don't have the transcript.

12
13 JEFF ZYONTZ:
14 Right. The transcript is in the record. I don't believe --

15
16 CINDY BAR:
17 Mr. Fink testified that -- that there are currently tenants that were behind in their rent and
18 asking for further rent concessions, and that he was concerned that the center would go
19 out of business. There's testimony in the record from Mr. Fink on that point. I can get you
20 the --

21
22 COUNCILMEMBER LEVENTHAL:
23 And is it the applicant's intent to let this play out, even if the rezoning were granted?
24 Because I assume right now -- the state of the housing market is such that there's a lot of
25 inventory on the market. If you bring all these townhouses, you wouldn't construct them
26 unless people were buying them, and, you know, we just heard the economic indicators
27 this morning. There's not -- I don't know what the demand is for these townhouses today,
28 but it's pretty -- the market is pretty weak right now.

29
30 CINDY BAR:
31 Mr. Fink testified that currently there is no plan to close the center, but they are trying to
32 position themselves, if there's a continued decline at the center, to have an alternative
33 use, and that this is to give them an option.

34
35 COUNCILMEMBER LEVENTHAL:
36 OK. Last question.

37
38 PHILIP TIERNEY:
39 Mr. Fink's testimony was clear that he is -- he doesn't think that there's a market for
40 residential housing at the site now, and he had no immediate plans for developing the site.

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1 COUNCILMEMBER LEVENTHAL:

2 OK. Last question. Anne Marie Martinez, nice to see you. You started out by showing us
3 slides indicating the amount of green space in Cinnamon Woods, but that specific green
4 space that's in your slides -- that's not threatened by this rezoning. The green space in
5 Cinnamon Woods would remain.

6
7 ANNE MARIE MARTINEZ:

8 That was for -- just a compatibility issue showing that the proposed development has no
9 green space, except for the graveyard and the storm water management.

10
11 COUNCILMEMBER LEVENTHAL:

12 Right. But the green space that was shown in that slide would still be there even if the
13 rezoning were granted and the townhouses were developed.

14
15 ANNE MARIE MARTINEZ:

16 Oh absolutely, sure.

17
18 COUNCIL PRESIDENT ANDREWS:

19 OK. Thank you, Councilmember Leventhal. Councilmember Knapp.

20
21 COUNCILMEMBER KNAPP:

22 Thank you, Mr. President. Thank everyone for their testimony. We have two issues that
23 we're looking at -- compatibility and public interest -- and then there was one that was also
24 raised I wanted to look at for just a second. The element of compatibility, if I look at the
25 numbers that were presented and I look at the map, from a compatibility perspective, the
26 proposal is roughly equivalent to the adjacent -- immediately adjacent neighborhoods,
27 correct?

28
29 PHILIP TIERNEY:

30 Close. 13.2.

31
32 COUNCILMEMBER KNAPP:

33 Actually, with the exception of Cinnamon Woods, which has a lower density but also has a
34 pretty -- appears to be a fairly large buffer between the back end of the parcel in question
35 and where you actually hit residential, except for one spot.

36
37 PHILIP TIERNEY:

38 Yeah. The two adjoining communities have densities in excess of 12-point dwelling units
39 per acre -- over 12 per acre. This is proposing just slightly over 13 dwelling units per acre.
40 Cinnamon Woods has 8.2, so there is a -- there's a larger difference between Cinnamon
41 Woods and the proposal, but with the other development, it's more compatible.

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1
2 COUNCILMEMBER KNAPP:

3 Yeah. In the course of the -- of the hearing or the testimony, was there any discussion as
4 to the disposal of the police substation and what happens if that were to -- if the shopping
5 center were, in fact, to go away, and it was -- and the proposed development were to
6 proceed?
7

8 PHILIP TIERNEY:

9 No, there was no discussion of what would happen to existing tenants, except the fact that
10 they have no plans to move ahead immediately and take over the shopping center. The
11 applicant doesn't have those plans.
12

13 COUNCILMEMBER KNAPP:

14 OK. The second element was public interest, and -- served by the proposed project. If you
15 could enlighten just a little bit, in this context, what does that mean? What would be a
16 public interest that would potentially change your finding or your recommendation as the
17 Hearing Examiner for this type of a -- for this type of a project?
18

19 PHILIP TIERNEY:

20 Well, the Master Plan is important. We evaluate the Master Plan for the -- and there's
21 recommendations -- the opposition claims that the -- or they testified that the Clopper
22 Village was intended to be a model for the other six villages in Germantown initially, and
23 that this particular shopping center was designed as a model, and it was supposed to be
24 applied, and there's some evidence of record to support that. On circle 34, there's a letter
25 that's reproduced from Susan Soderberg, the president of the Historical Society, and she
26 goes into a lot of the history that provided background for the development of this
27 shopping center. And she concludes that even though this model was not followed in
28 other villages, it was -- this project was built before the 1989 Master Plan, so the... She
29 concludes that it's still a viable model, and that -- so Master Plan is one aspect of the
30 public interest. The other is environmental benefits, and on the environmental benefits,
31 there's a number of factors that support the application. The reduction of impervious
32 surface by almost a third, the --
33

34 COUNCILMEMBER KNAPP:

35 Address that a little bit further. So impervious surface -- imperviousness on that site is now
36 what level?
37

38 PHILIP TIERNEY:

39 It's about 90% on the part of the center that's developed, with asphalt paving and store.
40 It's about 90%. They would reduce that by about a third. They would provide enhanced
41 storm water system. The existing storm water system on the site does not do any water

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1 quality treatment, and it's sort of an antiquated system. So the new storm water
2 management would enhance storm water runoff, water quality. You also have the green
3 space area. And I know that it's been criticized that the green space in this particular
4 location is made up of a cemetery and a storm water management facility and doesn't
5 provide much recreational space, but nevertheless, it is green space that's not -- and the
6 green space is being enhanced more than what is there now. There's also an
7 enhancement in the setbacks. The setbacks are more generous than they originally were.
8 And there's a creation of -- of a forestation that would be -- I think 1.27 acres of land would
9 be reserved for the planting of trees and things that aren't there now. So I think the
10 environment is one of the factors you balance. The other things -- the other two items that
11 are recommended by the Master Plan is the preservation of natural or historic resources,
12 and we have the cemetery.

13
14 COUNCILMEMBER KNAPP:

15 Right, which you get with the cemetery.

16
17 PHILIP TIERNEY:

18 And also the provision for diversity in housing, and we have the affordable housing
19 provided by MPDUs, 14 MPDUs.

20
21 COUNCILMEMBER KNAPP:

22 And so -- OK. And what were to happen -- if we go ahead and do something -- so if it were
23 to be rezoned and the market doesn't change, and then it continues -- it continues to be
24 economically viable as a shopping center, then that continues to work. There's nothing --
25 there's no -- there's nothing that precludes anything that's going on at that site now to be
26 any different than it would otherwise.

27
28 PHILIP TIERNEY:

29 Right. If the market doesn't change for housing, they would continue as a non-conforming
30 use, if you rezone the property.

31
32 COUNCILMEMBER KNAPP:

33 Right. And also the same is true with the school and the moratorium piece, because if
34 there is, in fact, a moratorium in that area, then the development doesn't go forward, and
35 you're still in the same situation.

36
37 PHILIP TIERNEY:

38 That's right.

39
40 COUNCILMEMBER KNAPP:

41 OK.

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1
2 COUNCIL PRESIDENT ANDREWS:

3 Thank you, Councilmember Knapp. Council Vice President Berliner.

4
5 COUNCIL VICE PRESIDENT BERLINER:

6 Mr. Knapp clarified, I believe, that the concerns that have been expressed with respect to
7 moratorium are addressed simply by the fact that if it's in moratorium, the project doesn't
8 go forward. If it's not in moratorium, then it can go forward at the point in time when they
9 go for site development approval -- subdivision approval.

10
11 PHILIP TIERNEY:

12 They can't get subdivision. There is a -- the moratorium is in place, and those projects that
13 have already received subdivision approval are exempt, and they can move ahead, but
14 anything that's not --

15
16 COUNCIL VICE PRESIDENT BERLINER:

17 If they were to file tomorrow, they would be denied on the basis of, "I'm sorry. we're in
18 moratorium." All right.

19
20 COUNCIL PRESIDENT ANDREWS:

21 Thank you. Councilmember Elrich.

22
23 COUNCILMEMBER ELRICH:

24 I wanted to follow up on the line of questioning that George kind of left off at. So I want to
25 be clear that in this case, the open space really is pretty much the cemetery and the storm
26 water management.

27
28 PHILIP TIERNEY:

29 The cemetery, storm water management. There is some grassy areas around the
30 perimeter of the site, but --

31
32 COUNCILMEMBER ELRICH:

33 In the surrounding --

34
35 CINDY BAR:

36 If I can clarify that? That's actually -- there's a -- there's a park. There's a central park.

37
38 COUNCILMEMBER ELRICH:

39 In the -- right off the street.

40
41 CINDY BAR:



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1 Right. In the center of the proposal.

2
3 COUNCILMEMBER ELRICH:

4 In the surrounding neighborhoods, though, is the open space more dispersed throughout
5 the neighborhoods? I mean, are the other neighborhoods less densely packed, with more
6 green space throughout them, rather than this model?

7
8 PHILIP TIERNEY:

9 Cinnamon Woods is developed at 8.2 dwelling units per acre, so there's a lot of green
10 space there that's not found in these other projects. And I -- we saw the photograph
11 presentation that Miss Martinez --

12
13 COUNCILMEMBER ELRICH:

14 I mean, I'll say that we've got to do a better job with photographs, because once again I'm
15 confronted with black-and-white photographs that are really hard to make out what's --
16 what's green space. I mean, if I wanted to look at this and look at the surrounding
17 neighborhoods and determine, I'm left to these drawings, the black-and-white drawings,
18 with little lots carved out on them, and my perception is, looking at the other
19 neighborhoods, that the green is more dispersed through the communities, whereas this,
20 your -- your green space is accomplished on a storm water pond and a cemetery, which to
21 me seems very functionally different than the purpose of green space.

22
23 PHILIP TIERNEY:

24 The technical staff reports had several colored aerial photographs that were helpful.

25
26 COUNCILMEMBER ELRICH:

27 Maybe we should color them a different color.

28
29 PHILIP TIERNEY:

30 I don't want to be specious, but perhaps the Hearing Examiner's budget could be
31 increased to where we could distribute electronically.

32
33 COUNCILMEMBER ELRICH:

34 Ah. That's a concept. My other question was about the planned nature of the village. I
35 mean, it seems to me you're saying that this center was planned to serve the surrounding
36 neighborhoods. There's evidence of that.

37
38 PHILIP TIERNEY:

39 According to Miss Soderberg, that's -- that's correct.

40
41 COUNCILMEMBER ELRICH:

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1 And the other villages, the shopping centers in those other villages, were planned to serve
2 those neighborhoods. That's why you've got multiple shopping centers and multiple
3 neighborhoods. So what you would be doing in this case, you would be taking a village
4 which had a planned -- what do they call them when Park and Planning is in a good
5 mood? A livable, walkable community? So you have this village with a planned retail
6 center in it, and now you're yanking the planned retail center out of the village, which
7 would make it different than the other villages, which actually do have a retail center to
8 serve the planned village. That would be the effect of this.

9
10 PHILIP TIERNEY:

11 And that's one of the public interest factors that support the opposition.

12
13 COUNCILMEMBER ELRICH:

14 Because it doesn't -- doesn't it significantly change the character of the village if you take
15 something that was planned to serve the village out of the village, and then compare it
16 and then say you can go to one of the other villages, which... I think you answered my
17 question. Thank you.

18
19 COUNCIL PRESIDENT ANDREWS:

20 Thank you, Councilmember Elrich. OK. Are there any other questions or comments from
21 colleagues?

22
23 COUNCILMEMBER ELRICH:

24 I move to reject this.

25
26 COUNCIL PRESIDENT ANDREWS:

27 OK. There's a motion by Councilmember Elrich to reject the Hearing Examiner's report. Is
28 there a second?

29
30 COUNCILMEMBER LEVENTHAL:

31 I'll second.

32
33 COUNCIL PRESIDENT ANDREWS:

34 OK. And seconded by Councilmember Leventhal. OK. Is there any discussion about the
35 motion?

36
37 PHILIP TIERNEY:

38 One -- just a point of procedure. Normally when you're denying a request, you have the
39 county attorney prepare a Resolution to Deny, and that would be what you would vote on.

40
41 COUNCIL PRESIDENT ANDREWS:

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1 Yes. Councilmember Leventhal.

2
3 COUNCILMEMBER LEVENTHAL:

4 We could certainly -- if this were the sense of the Council, to pass Mr. Elrich's motion, then
5 we could certainly come back at the beginning of September with the correctly drafted
6 resolution, if that's --

7
8 JEFF ZYONTZ:

9 Right. It would be a straw vote.

10
11 COUNCILMEMBER LEVENTHAL:

12 If that were the will of the Council.

13
14 COUNCIL PRESIDENT ANDREWS:

15 OK. All right. And that would give the Council the opportunity to review the -- the motion
16 and the language and the conclusions of the denial to see if it was comfortable with all the
17 reasons that were put forward, and we have a couple of colleagues, as well, who are not
18 here, as well. OK. All right. I don't see any other discussion, then. So that is a motion to
19 ask the Council staff to draft such a request, and this is a -- I'll ask the clerk. I have on my
20 sheet here that it's a roll call vote for this, but is that also the case on this motion? Yes?

21 OK. All right. Clerk will call the roll.

22
23 MARY ANNE PARADISE:

24 Mr. Elrich.

25
26 COUNCILMEMBER ELRICH:

27 Yes.

28
29 MARY ANNE PARADISE:

30 Miss Trachtenberg.

31
32 COUNCILMEMBER TRACHTENBERG:

33 Yes.

34
35 MARY ANNE PARADISE:

36 Miss Floreen.

37
38 COUNCILMEMBER FLOREEN:

39 No.

40
41 MARY ANNE PARADISE:

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1 Mr. Leventhal.
2
3 COUNCILMEMBER LEVENTHAL:
4 Yes.
5
6 MARY ANNE PARADISE:
7 Mr. Knapp.
8
9 COUNCILMEMBER KNAPP:
10 Yes.
11
12 MARY ANNE PARADISE:
13 Mr. Berliner.
14
15 COUNCIL VICE PRESIDENT BERLINER:
16 No.
17
18 MARY ANNE PARADISE:
19 Mr. Andrews.
20
21 COUNCIL PRESIDENT ANDREWS:
22 Yes. And... I think that concludes the business for this afternoon. Thank you all. We are
23 going to come back at 1:45. We have a number of speakers -- we have half an hour. I
24 would move it to 2:00, except that we do have a lot of speakers for our public hearings,
25 and I don't want to delay them any more than I think is necessary in order for
26 Councilmembers to grab a bite to eat. So half an hour. Quarter of two, and that --
27
28 COUNCILMEMBER TRACHTENBERG:
29 OK. We get a half an hour.
30

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1 COUNCIL PRESIDENT ANDREWS:

2 Good afternoon, everybody. Welcome to the County Council. Thank you for your patience.
3 The Council had a long session in the morning and ran over a little bit, and we thank you
4 for being patient. We have several public hearings this afternoon before we take up the
5 Germantown Sector Plan, and we have approximately 25 speakers for the public
6 hearings, in an effort to accommodate everybody and have everybody speak at this public
7 hearing, rather than have some folks carry over until after the recess. So we wanted to
8 hear from everybody. The first public hearing will be a public hearing on Zoning Text
9 Amendment 09-05, Burtonsville Overlay Zone - Allowed Uses, that would amend the land
10 uses allowed in the overlay zone for the Burtonsville Employment Area of the Fairland
11 Master Plan and generally amend the overlay zone for the Burtonsville Employment Area
12 of the Fairland Master Plan. Persons wishing to submit additional material for the
13 Council's consideration should do so before the close of business Thursday, September
14 17, 2009. A Planning, Housing, and Economic Development Committee worksession is
15 scheduled tentatively for Monday, September 21, 2009, at 2:00, and if you are presenting,
16 testifying on this issue, I'll call you up in just a minute. Please remember to state your
17 name clearly for the record. I want to read a statement from Councilmember Navarro, who
18 is the sponsor of this measure and cannot be here today. And it reads, "I apologize for
19 missing this hearing on a bill I am sponsoring, but the issue here was important enough to
20 my community that I did not want to delay progress on this issue while I was out of town. I
21 am sponsoring this Zoning Text Amendment in Burtonsville in order to advance the
22 community's vision for quality amenities and revitalization in an area often overlooked by
23 the County. At issue is a proposed self-storage facility in Burtonsville. The County
24 Executive has made Burtonsville redevelopment a priority, and I have long joined the
25 called of the community for high-quality amenities in that neighborhood. Burtonsville
26 already has a self-storage facility, and this ZTA would prevent construction of a second
27 self-storage facility in the area. A self-storage facility would be counter to the community's
28 goals and would create an eyesore in an area where we are promoting streetscapes, town
29 center esthetics, and other improvements. The neighbors, civic associations, and small
30 business owners are nearly unanimous in their opposition to the self-storage facility, and I
31 am pleased to work with them on fostering a shared vision for Burtonsville's future. My
32 staff are in the audience and will report back to me the results of today's hearing." Again,
33 that is a statement from Councilmember Nancy Navarro, who is the sponsor of the ZTA.
34 So we'll now have the public hearing on it, and I want to call up Mr. Greg Russ, who I see
35 is here, from the Montgomery County Planning Board; Bob Dalrymple, from ezStorage;
36 Eric Luedtke, representing the East County Citizens Advisory Board; Patrick Ryan,
37 representing the Fairland Master Plan Citizens Advisory Committee; Jim Humphrey,
38 representing the Montgomery County Civic Federation; and Bob Sylvester, speaking as
39 an individual. Each of you will have up to three minutes for your remarks. A yellow light
40 will start flashing with 30 seconds to go. A red light means your time is up. Please
41 conclude, if you're still speaking in -- on whatever sentence you're on. And if you have

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1 written testimony, please give it to the clerk to my left, and we will read it if you -- we will
2 read it and we will have it in case you don't get to complete your testimony. So -- and
3 please stay at the table. There may be questions for you or other members of the panel
4 after everyone has spoken. So our first speaker will be Mr. Russ from the Planning Board.

5
6 GREG RUSS:

7 Thank you, Mr. Andrews. For the record, Greg Russ from the Montgomery County
8 Planning Board. The Planning Board did review Zoning Text Amendment 09-05 at its
9 meeting on July 23. The board recommends approval of the text amendment as modified
10 and seen in the staff report that you have with you up there. The text amendment
11 proposes to clarify that in enacting the Burtonsville Overlay Zone, it was not the legislative
12 intent of the Council to permit land uses to be interchanged among the various underlying
13 zones. The ZTA is consistent with past actions of the Planning Board and with the board's
14 understanding of the intent of the Burtonsville Overlay Zone. An important objective of the
15 Master Plan is to diversify uses in the U.S. 29/Cherry Hill Road area and the Burtonsville
16 industrial area. For the Burtonsville industrial area, the Master Plan's goal is to develop a
17 diversity of uses to serve and support the businesses, employees, and area residents,
18 with the objective of enabling the Burtonsville industrial area to develop as a diversified
19 but unified employment center. The Master Plan also discusses the importance of limiting
20 land uses in the I-1 zone, permitting additional uses in the I-3 zone, and making certain
21 adjustments to the land uses of the base zones consistent with Master Plan
22 recommendations. The Planning Board believes that the text amendment supports the
23 Master Plan objectives and that the overlay zone is not intended to allow uses not
24 otherwise allowed in the underlying zones, unless the uses are specifically identified in the
25 overlay zone's list of permitted uses. The board further agrees with staff's
26 recommendation that the sponsor's intent in introducing this ZTA is more clearly
27 expressed by some modifications that we have included in our staff report. Thank you.

28
29 COUNCIL PRESIDENT ANDREWS:

30 Thank you, Mr. Russ. Our next speaker will be Bob Dalrymple representing ezStorage.

31
32 BOB DALRYMPLE:

33 Good afternoon. For the record, Bob Dalrymple, with Linowes & Blocher, on behalf of
34 Siena Corporation, who's the owner and developer of ezStorage facilities in Montgomery
35 County and elsewhere in the region. As with ZTA 09-01 that was recently before you on
36 the Sandy Spring-Ashton Overlay Zone, this is a direct attack on the ezStorage facility.
37 That's the sole purpose for this ZTA, I think made clear by the comments that you read
38 into the record from the sponsor. In both instances, ezStorage was proceeding as a
39 permitted use in good-faith reliance upon the with governmental processes and the laws
40 and regulations of the County, only to be targeted with a ZTA to try to stop them
41 midstream, at a time when it has been the expressed desire, I think, of this body and the



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1 Park and Planning Commission to limit ZTAs and single-purpose ZTAs, in particular, while
2 the rewrite of the ordinance is being undertaken. To have two ZTAs in the last several
3 weeks targeting this exact same user is appalling. To recap, in the 1996-1997 era, the
4 Fairland Master Plan and the Burtonsville Overlay Zone were enacted, with the overlay
5 zone being specifically to carry out the intent of the Fairland Master Plan. It's quite clear
6 from that Master Plan that all of the uses in the I-1, I-3, and OM zones were intended to
7 be allowed in the overlay zone to expand the use base for that area and supplant the
8 scattering of residential uses that were no longer the desire for that area. Before Siena
9 purchased the property that's the subject of the ZTA, which is at the quadrant of U.S. 29
10 and Maryland 198, they went to the Park and Planning Commission and sought final
11 clarification that in fact self-storage use was permitted. They did receive that, and it's
12 attached to the written materials that I've submitted to you -- that it was in fact permitted
13 and that the permissiveness of the use was consistent with the Master Plan. They bought
14 the property on reliance. We took a preliminary plan to the Planning Board. The Planning
15 Board, notwithstanding that it was a permitted use, rejected the preliminary plan on the
16 basis of nonconformance with the Master Plan. The Circuit Court overturned that, finding
17 the use to be permitted and consistent with the Master Plan, and the Planning Board
18 reluctantly approved the preliminary plan, only to have this ZTA now try to stop us. To say
19 that the ZTA is needed to carry out the intent of the Master Plan is a disingenuous rewrite
20 of the Master Plan and of history. And aside from the illegality of it -- which, we clearly
21 think it is illegal -- just as a practical matter, this is governmental abuse, if ever I have
22 seen it. And I think that I've always been able to tell clients that this County was going to
23 treat you fairly, notwithstanding late vesting. I can no longer say that to people. Twice now
24 in the last six months, we've been undermined in the middle of good faith reliance upon
25 this process. I would ask you to deny this or, at the very least, grandfather this particular
26 project that has preliminary plan approval. Time.

27
28 COUNCIL PRESIDENT ANDREWS:

29 OK. Thank you, Mr. Dalrymple. Our next speaker is Eric Luedtke.

30
31 ERIC LUEDTKE:

32 Good afternoon. I'm Eric Luedtke. I'm a resident of Burtonsville and a member of the East
33 County Citizens Advisory Board, and I'm speaking today on behalf of the East County
34 Citizens Advisory Board. The board urges you to support ZTA 09-05. Self-storage facilities
35 in the area in question conflict with the intent of the Master Plan. The area of Burtonsville
36 in question was meant to hold a diversity of businesses, and if you've driven up 29
37 anytime recently, you've seen plenty of self-storage facilities along the 29 corridor,
38 including in Burtonsville itself. This ZTA simply reinforces that original intent of the Master
39 Plan. Burtonsville needs real economic development, with businesses are going to be part
40 of a vibrant community center. I was observing earlier this morning, when you were talking
41 about a different issue and questions were raised about viability of shopping centers and

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1 empty storefronts -- well, we're there in Burtonsville. We've got four or five empty
2 storefronts right now. We need businesses there who will bring employees, who will bring
3 jobs -- employees who will walk across the street and eat at Seibel's and Cuba de Ayer
4 and our other restaurants and shop at our local stores. What we don't need is to become
5 the self-storage capital of Montgomery County. So, on behalf of the East County Citizens
6 Advisory Board, I urge you to support ZTA 09-05. Thank you.

7
8 COUNCIL PRESIDENT ANDREWS:

9 Thank you, Mr. Luedtke. Our next speaker is Patrick Ryan.

10
11 PATRICK RYAN:

12 Good afternoon. I'm Patrick Ryan. I'm speaking on behalf of the Fairland Master Plan
13 Citizens Advisory Committee. Much of what I am going to say to you this afternoon was
14 written by my friend Stuart Rochester, who is unfortunately too ill to present it himself. But
15 you will recognize Stuart's inflection, I hope, in a couple of these words. This is "Alice in
16 Wonderland" stuff -- having to approve a project that had judged by the County as
17 singularly inappropriate for the site, contributes nothing to an area that already has a glut
18 of such facilities, and makes a mockery not only of our Master Plan intent but the Planning
19 Board's authority and discretion to rule in such matters. The Master Plan, of course, as the
20 Planning Board recognized and decided unanimously, explicitly states that the
21 Burtonsville Overlay Zone was to be an employment center with a diversity of uses, and
22 on neither score did the proposed development remotely qualify. The applicant cited as a
23 precedent the storage facility already there, but that had a pre-existing approval and is in
24 the underlying I-1 zone. The ezStorage proposal is in the underlying I-3 portion of the
25 overlay, which prohibits the storage use. We should not have to swallow a project that
26 violates the Master Plan, the zone, and your common-sense judgment, and most
27 unfortunately will impair efforts to revitalize Burtonsville and transform the character and
28 perception of the business district. We stand by the testimony we delivered, and which is
29 on the record from the February 14 and May 14 Planning Board hearings. The Master
30 Plan supports a diverse business community in Burtonsville. The Zoning Text
31 Amendment, without a correction, rows of idle self-storage buildings could become the
32 signature feature of what was supposed to be a busy activity center. The perverse effects
33 would undermine the County and regional objective to expand employment opportunities
34 in the East County and thereby improve the jobs/housing ratio. The last thing the east side
35 of 29 needs is another visible self-storage facility to underscore the transiency, scattershot
36 development, and poor planning implementation that have marred efforts to rehabilitate
37 the area. We all have an interest in seeing that this key gateway into Montgomery from
38 two neighboring counties becomes a source of pride rather than embarrassment, and we
39 are grateful to Councilmember Navarro and other Councilmembers who have indicated
40 support -- their support for this measure. Thank you.

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1 COUNCIL PRESIDENT ANDREWS:

2 Thank you, Mr. Ryan. Our next speaker is Jim Humphrey.

3
4 JIM HUMPHREY:

5 I'm Jim Humphrey, representing the Montgomery County Civic Federation as chair of our
6 Planning and Land Use Committee. Since the Federation's full delegate assembly does
7 not meet during the months of July and August, the MCCF position in support of ZTA 09-
8 05 was adopted by unanimous vote of the members present at our July 21 meeting of the
9 Executive Committee. The MCCF thanks Councilmember Navarro for responding to her
10 constituents' concerns and introducing this legislation, and we express our admiration for
11 her courage into entering the zoning text arena so soon after taking office. Any effort that
12 she and others on Council can make to encourage the creation of quality jobs for skilled
13 workers on the eastern part of the County will be greatly appreciated. On a cautionary
14 note, the Federation urges the Council to take care when considering further limitations on
15 permitted uses in industrial zoned areas because of the relative scarcity of such land in
16 the County. We wonder, for example, why this ZTA seeks to prohibit bakeries,
17 confectionary production, and the manufacturing of musical instruments, toys and pottery
18 and figurines in the Burtonsville Employment Area Overlay Zone, yet the manufacturing
19 and assembly of scientific instruments, electronic components, and even mobile homes
20 would still be allowed on industrial-zoned land in the area. The MCCF encourages PHED
21 Committee members, when considering this ZTA, to research the location and total
22 acreage of industrial-zoned land in the County to try and ensure that businesses providing
23 desired or needed goods and services are not pushed further and further away from their
24 intended customer base, or completely out of the County and into surrounding
25 jurisdictions. We also remind the Council that, as Mr. Ryan pointed out, self- storage units
26 are a permitted use in the I-1 zone, and if they were to be prohibited totally in the
27 Burtonsville Employment Area Overlay Zone, that would have to be added to the ZTA.
28 Thank you very much.

29
30 COUNCIL PRESIDENT ANDREWS:

31 Thank you, Mr. Humphrey. Our final speaker on this public hearing is Bob Sylvester.

32
33 BOB SLYWESTER:

34 That is Sylwester, spelt with a "w" and not a "v."

35
36 COUNCIL PRESIDENT ANDREWS:

37 I'm sorry.

38
39 BOB SLYWESTER:

40 OK. I have here a signed statement by nine of my neighbors on Valley Stream Avenue.

41 We are on the eastern side of the industrial tract, and Dino Road, which goes through the

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1 industrial tract, we also have to use that to access our property, so we are sharing that
2 road with the people that use the industrial tract. We have four things we would like to see
3 the County take action on. One, a tract of buildings not accessible from the highway. Our
4 view of the existing extra-space storage is, we see rows of concrete block buildings
5 behind a cinderblock -- behind a chain-link fence. OK? The proposed ezStorage building
6 on the western border of the tract will be highly visible from Route 29. It will be about 35
7 feet tall and extremely close to northbound down ramp. It will appear as a huge concrete
8 wall, and if ezStorage elects to put their block lettering around the top of the building, like
9 they have on their building on Berger Lane in Howard County, the facility will serve as a
10 giant billboard. If you drive north on Route 29 through Howard County, you do not see any
11 signage or buildings; rather, the natural landscape lines the highway. Secondly, we would
12 like to see diversity of build -- of businesses on Route 198 between the existing storage
13 facility and the proposed one. There's a large sign saying, "For lease, 5.2 acres, storage
14 lot." Thirdly, we'd like to see safe access from Route 198. The County needs to work with
15 the State Highway Administration to ensure safe access. When Route 29 realignment
16 occurred several years ago, the crossover at Route 198 and Star Point was closed. This
17 had been the main access to the industrial tract, and now to access the proposed storage
18 facility from I-95 in Laurel, customers will need to pass the site, drive through the traffic
19 light at the Route 29 down ramp, which is where Isiah Leggett had his accident, go under
20 the new 29, and at then, at the old Route 198/29 intersection, attempt to make a U-turn
21 from the left-most lane of five lanes. Equally challenging, when they leave the site and
22 wish to go to Burtonsville, they must first east to Dino Road, attempt a U-turn. They will be
23 met with oncoming traffic for people going to Cedar Lane and Wootton Lanes coming the
24 opposite direction from Laurel making U-turns. And then into -- into the middle of this is
25 my neighbors and I trying to exit from Dino Road. What we have is gridlock with this
26 intersection. We've had one fatality already and numerous accidents. So we are seeking
27 improvements for the whole area. Thank you. We -- we appeal to the County to adopt
28 Text Amendment 09-05.

29
30 COUNCIL PRESIDENT ANDREWS:

31 OK. Thank you all for your testimony, and thank you all for your testimony.
32 Councilmember Leventhal has a question or a comment.

33
34 COUNCILMEMBER LEVENTHAL:

35 Well, I really appreciate Jim Humphrey's testimony, although the second half of the
36 testimony appears to someone contradict the first half of the testimony. But the questions
37 in the second half are the questions I wanted to ask. This is the second time now we've
38 been here hearing from a community that it doesn't want a self- storage facility, and I -- I
39 have to assume, and I'm going to ask -- and I agree with Mr. Humphrey's suggestion that
40 the PHED Committee sort of step back and take a broad look at this interesting question,
41 and I'd like to ask staff maybe to work with Planning Board staff because someone must

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1 want self-storage facilities. Otherwise, they wouldn't be profitable for the landowners who
2 seek to build them. But the people who are using them, I'm only speculating who those
3 might be. Maybe they're students, maybe they're people who, sadly, were -- lost their
4 homes through foreclosure, maybe they're people who are empty-nesters who are
5 preparing to change their housing arrangement. I haven't myself been a customer of a
6 self-storage facility. There are several near my house, but there has to be a market for
7 them because in both of these places, Sandy Spring and Burtonsville, the uses that the
8 neighborhoods said they wanted -- a job base, lively streetscape, coffee shops, interactive
9 opportunities, shopping, dining, all the things that would make a community desirable --
10 had those tenants been lining up wanting to use that land, the landowners in Burtonsville
11 and Sandy Spring presumably would have been making the land available to those
12 tenants, but in neither case did it. In both cases, it was proposed for a self-storage facility.
13 I guess my question is, who uses self-storage facilities? They must -- there must be a
14 demand for it, and it is important that we think about that. I have a very open mind on this
15 ZTA, and I have a very open mind on the one in Burtonsville. I understand the concern
16 that if you store stuff in a warehouse and leave it there for a while, that doesn't generate
17 street activity and doesn't have a multiplier effect for other businesses. I understand all the
18 testimony to that effect. But I guess the question is -- and Jim Humphrey's testimony
19 addresses the question -- well, where can they go? Is there anywhere in the Montgomery
20 County that we allow these things? If not in Sandy Spring, if not in Burtonsville, would any
21 community welcome it, and if no community welcomes it, then if we're going to do these
22 two ZTAs, are we basically saying, if a community doesn't welcome it, we're just not going
23 to allow self-storage in Montgomery County? Maybe that's going to be our position, but it
24 seems to me we ought to think about that. There must be the need for these facilities.
25 Someone must want to use them, and where do we think they ought to go? Does the --
26 because I thought your testimony touched on these things, Jim. Does the Civic Fed have
27 a view on that now? Is there any place in Montgomery County we would say, "OK, let's put
28 them -- the self-storage facility there"? Jim Humphrey?

29
30 JIM HUMPHREY:

31 That's why we asked for the -- essentially an inventory be done. We know that that was
32 begun, I believe by Park and Planning staff -- Planning Department staff -- and I can't
33 remember what issue it was that brought -- that brought it to the forefront. But we're
34 already looking -- they were already looking at the amount of the industrial zone land in
35 the County. But it has to do primarily with location.

36
37 COUNCILMEMBER LEVENTHAL:

38 Pat Ryan and Eric Luedtke, you're thoughtful, smart people -- could you suggest to me a
39 place in Montgomery County where it would be OK to have a self-storage facility?

40
41 PATRICK RYAN:

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1 Sure. Yeah. I think anyplace that's not prominently exposed to main thoroughfares and
2 wouldn't convey the sense that this is an abandoned area, essentially. In other words, if
3 you're talking about locations, there's one off of, for instance, Briggs Chaney Road about
4 a mile and a half south -- it's near the Pepsi bottling plant. It's in a pretty obscure location,
5 but it's convenient to those who need such facilities.

6
7 JIM HUMPHREY:

8 I remembered how it was during the Twinbrook Master Plan revision process that
9 Park and Planning staff looked at that because there was a change in the industrial zone
10 category there to allow residential uses, and there was some concern over the amount of
11 industrial zoned land left in the County, so that we not essentially push out the goods and
12 services that are provided on an industrial zoned land out of the County or into sprawl
13 areas or even into neighboring counties -- that we retain the value of industrial zoned land
14 in the County. That -- the occurred during Twinbrook Master Plan revision.

15
16 COUNCILMEMBER LEVENTHAL:

17 Yeah. I think that's -- that's a real important point.

18
19 ERIC LUEDTKE:

20 I mean, I agree with Mr. Ryan. The facility he's talking about on Briggs Chaney is -- it's not
21 obvious, it's not out there, it's not in your face. It's -- it's -- you know, and it's in a spot
22 where people need it. It's right across from a large set of apartments there. And I mean,
23 part of the issue is -- first of all, this would be a very obvious facility. I mean, anybody
24 coming into the County down the 29 corridor or across 198, this would be -- the first thing
25 they see in Montgomery County is a huge storage facility. The other issue that is of
26 particular concern to the East County board is, we have a number of these facilities in the
27 East County already. We have one in Burtonsville already, the one on Briggs Chaney,
28 there's one on Tech Road, just a couple of miles down 29, and the question is, how many
29 of these facilities can you stick in a single community without making that community
30 effectively a wasteland? Because there's at most, what, one employee on each.

31
32 COUNCILMEMBER LEVENTHAL:

33 But doesn't that also, Eric, suggest that there's a lot of demand for them? Someone wants
34 them. No one testifying here wants them, but they must be in use.

35
36 ERIC LUEDTKE:

37 Yeah, and I think there's a place for them. I just don't think, you know, right on the corner
38 of Burtonsville, especially given that Burtonsville, of all the communities in the County, is
39 in -- in serious economic trouble right now. To place there -- use up a large chunk of land
40 that has almost -- for a use that has almost no employment is not constructive in any way
41 to the development of the community.



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1
2 **PATRICK RYAN:**

3 Councilmember Leventhal, if I could add a note -- Burtonsville has been -- the Burtonsville
4 Business District has been designated a legacy community, and the County is already
5 involved in serious efforts to try to revitalize the Burtonsville Business District. And frankly,
6 we just don't see how this will lend itself to those efforts.
7

8 **COUNCILMEMBER LEVENTHAL:**

9 Mr. Dalrymple, let me -- I know you want to speak, and I -- let me ask you this question.
10 So what about this issue of, were there other tenants or users or uses that your client
11 might put here? I mean, I'm guessing, because of the way the market works, that your
12 client decided that this piece of property was just right for a self-storage facility, and that
13 other uses that Mr. Ryan or Mr. Luedtke might find more desirable weren't interested or
14 weren't available or didn't express an interest. Did you client consider -- I don't know what
15 you guys want -- a Starbucks, a toy store, a high-tech factory? I don't -- we can't have a
16 manufacturing facility for musical instruments. That's not acceptable. But...
17

18 **BOB DALRYMPLE:**

19 Well, the way that this particular client analyzes this County and other areas is they do the
20 market studies, and they study the demographics, and they determine where, in fact,
21 there is a need for self-storage facilities, and then look at the zoning ordinance to see
22 where they're permitted and then do a site search based on where the two match up.
23 Twice now, that hasn't worked out, because notwithstanding it being permitted within an
24 area that they've targeted as the market supporting the use, in the middle of the process,
25 we've had a Zoning Text Amendment to derail it. In terms of the mix of uses, this
26 particular client has, in other instances, looked at ground-floor retail. In Takoma Park, I
27 think that that effort was undertaken, where they preserved an area for ground floor retail
28 and have had it on the market for two years without any success in leasing the space out.
29 They are other things that they've done in other areas to try to work to diversify the uses,
30 but they are a self-storage user. I mean, that's what they know, and that's what they do.
31 That's not to say that they wouldn't consider other opportunities. I would suggest that at
32 this particular location -- this is not exactly the pedestrian haven that's being called out to
33 be by others here today. This is -- this is in an industrial park. It's difficult to get to. It's at
34 the end of a Master Planned road that's not even built yet. It's accessible by what was at
35 one point in time thought to be a temporary state road. So this is not exactly the type of
36 destination where all of these wonderful uses that you're hearing today is going to be
37 supported by the marketplace, and I think that, in fact, this is a fantastic use. This client
38 has shown a remarkable willingness to work with communities to architecturally treat its
39 facilities, to make it compatible with the areas, and in order to make -- you can't force a
40 use on a location. And other users have come along and looked at these properties, and

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1 for market reasons, have chosen not to be there. So you can have a wish list all you want,
2 but the wish list and reality are two far different things in this particular instance.

3
4 COUNCIL PRESIDENT ANDREWS:

5 Thank you, Mr. Leventhal. Thank you all. That concludes the questions from
6 Councilmembers, and the public -- Planning, Housing, and Economic Development
7 Committee worksession is tentatively scheduled for September 21. Our next public
8 hearing is on Subdivision Regulation Amendment 09-02, Subdivision Approval - Conflict
9 Resolution, that would resolve certain conflicts between departments and agencies -- shh,
10 shh -- concerning the conditions of the approval of preliminary subdivision plan and
11 generally revise the requirements for the approval of a preliminary subdivision plan.
12 Persons wishing to submit additional material for the Council's consideration can do so
13 before the close of business Thursday, September 17, 2009. A Planning, Housing, and
14 Economic Development Committee worksession is tentatively scheduled for Tuesday,
15 September 22, at 3:00. And our speakers on this measure are Kathleen Boucher,
16 representing -- Wait a second. That can't be right.

17
18 COUNCILMEMBER FLOREEN:

19 Probably the County Executive.

20
21 COUNCIL PRESIDENT ANDREWS:

22 You haven't switched jobs, have you? No. Representing the County Executive. They put
23 things in front of me sometimes -- I have to make sure I read them all before I read them.
24 Royce Hanson, representing Montgomery County Planning Board; Frank Bossong,
25 representing the Maryland-National Capital Building Industry Association; Bill Kominers,
26 speaking as an individual; David O'Bryan, speaking as an individual. And that is our first
27 panel, and again, please introduce yourself. Each of you has up to three minutes. Yellow
28 light goes on with 30 seconds to go. Red light means please wrap up and please stay at
29 the table. There may be questions. So our first speaker will be Kathleen Boucher,
30 representing the County Executive. [PAUSE]

31
32 KATHLEEN BOUCHER:

33 On now? OK. Thank you. Good afternoon, Mr. President, Councilmembers. I am here to
34 represent the County Executive, as the president indicated. I'm pleased to provide
35 testimony on behalf of Mr. Leggett on Subdivision Regulation 09-02. This amendment is
36 directed at resolving conflicts that may arise in the interagency review of subdivision
37 plans. The County Executive believes that the amendment is unnecessary, and on advice
38 of the County Attorney's office, that there may be legal issues with the proposed
39 amendment, as well. Executive staff have been working actively with the Planning Board
40 staff to both coordinate comments on subdivision projects and address any conflicts that
41 arise in the interagency coordination process. As a part of that process, we've established

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1 a strike team approach in the event that there's a development review conflict at the staff
2 level. Specifically, Park and Planning's Chief of Development Review, on a monthly basis,
3 provides an Assistant Chief Administrative Officer with a list of projects that have
4 unresolved development review issues. The ACAO then circulates the list to appropriate
5 department directors. A meeting among the directors, the ACAO, and the Chief of
6 Development Review and staff follows to resolve any outstanding issues. Following the
7 initiation of this process, a list was provided to ACAO Diane Schwartz Jones. The list was
8 circulated to appropriate directors, and a follow-up meeting was held. The directors
9 actually resolved the outstanding issues in advance of the meeting, and the process was
10 very successful. Since that time, there have been no other conflicts that have needed to
11 be brought to the strike team's attention. Nonetheless, the members of the team retain a
12 hold on their calendars for future meetings as necessary. It is also worth pointing out that
13 with adoption of the context-sensitive road design standards and the incorporation of
14 these standards into regulations, greater detail and clarity is provided to the applicable
15 parts of the development review process. Given the legal concerns of the County
16 Attorney's office and the establishment of a cooperative process to address conflicts that
17 may arise, the County Executive believes that this SRA should not be adopted. Thank you
18 for the opportunity to share the Executive's position on this SRA.

19
20 COUNCIL PRESIDENT ANDREWS:

21 Thank you. Our next speaker will be Royce Hanson.

22
23 ROYCE HANSON:

24 Thank you, Mr. President. Royce Hanson, chairman of the Montgomery County Planning
25 Board. The board thinks that while this proposal is well intended, it unfortunately misses
26 the mark of reducing the time and improving the process for the review of development
27 proposals. It actually has the opportunity to extend the period of time for getting a decision
28 by as much as 72 days, given the time periods that are provided within the bill. It also has
29 an interesting little quirk in it that it gives our staff two days after a resolution has been
30 reached to notify the parties of record. And part of the problem is that not all the parties of
31 record are known until a public hearing is advertised and held. The -- furthermore, the way
32 that the amendment is drafted, the board would have to accept the recommendations of
33 the group without any intervening public hearing or without any public participation in the
34 process. So, in a sense, what we would be notifying parties the record of is not to bother.
35 The -- there are really better ways to achieve the objectives, and we've been working on
36 it. As Kathleen pointed out, we have established a process now that works pretty well. The
37 fact that the different agencies were able to reach agreement before the principals had to
38 meet speaks very well for the incentive that it has provided. The working relationship
39 between our staff and the Executive agencies is the best in memory, and it's getting better
40 all the time. We're all -- both sides are really working really very hard at making this -- this
41 process work. The principal causes for delay have been basically three -- a slow response

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1 by applicants, in some cases, to comments that have been made by agencies; secondly,
2 the inability of some of the people who had been appointed to the Development Review
3 Commission to be yes-and-no people, to be able to make decisions at that time or quickly
4 thereafter; and until recently, the very high volume of cases. Just to let you know how
5 things stand now, I just reviewed the amount of time that it took for the 36 cases that we
6 decided this year. The median time was nine months. A third of the cases had been
7 decided in six months or less. The average time was much greater. It was -- or the mean
8 time was 18 months, skewed by one case that apparently had been pending for 10 years.
9 I don't think that was just because agencies hadn't been able to reach agreement.

10
11 COUNCIL PRESIDENT ANDREWS:

12 Thank you, Mr. Chairman. Our next speaker is Frank Bossong.

13
14 UNKNOWN SPEAKER:

15 There you go.

16
17 FRANK BOSSONG:

18 Thank you very much. First of all, I thought that maybe I got a new member of the
19 association when I saw Kathleen's name under the Building Industry. But anyway, good
20 afternoon. I am Frank Bossong, and speaking on behalf of the Maryland-National Capital
21 Building Industry Association, MNCBIA, a regional organization representing more than
22 18,000 individuals in the building and development industry. On February 27, 2009, the
23 MCDPS Citizens Advisory Committee presented its 2008 second annual report to the
24 County Executive and the County Council. The report recognized that conflicts can and do
25 arise between agencies when the development approval process contains more than one
26 agency. In Montgomery County, there are at a minimum of six planning departments that
27 weigh in, six utility companies, four County departments, and two state agencies -- at a
28 minimum. While several issues are being addressed by changes in the Park and Planning
29 procedures, there is no clear mechanism that resolves competing and conflicting public
30 policy mandates, nor do ongoing changes limit requests for additional information that
31 extend the process indefinitely. The Maryland-National Capital Building Industry believes
32 that SRA 09-02 is a necessary first step to address one of the many issues that
33 contributes to the County's development approval process. When a land development
34 project is reviewed and approved by more than one agency, there are about -- there are
35 no doubt to be conflicts which result in long delays, duplication of effort, multiple meetings,
36 and unnecessary expenditures to the applicant, to the agencies, and to the County
37 government. The SRA sets up a neutral party to resolve conflicts in a specified time
38 period, with binding results. However, it also raises certain concerns as to process and
39 finality. These are: not all parties involved at DRC are included in the meeting with the
40 department directors; the applicant is expected -- is excluded from the meeting with the
41 department directors and is not permitted to present what is a viable -- what is viable for

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1 the project or what may be a practical solution; if the department directors make a
2 decision that negates a public mandate, how do the competing agencies waive the
3 mandate? What happens when the department directors fail to reach a decision?
4 Although it says they must reach a decision, what happens if they don't reach a decision?
5 If the resolution agreed to by the department directors is set aside by the Planning Board,
6 with all the agencies be required to accept the Planning Board decision? Whatever the
7 resolution, once it is approved by the board, it should extend to all permits involved in that
8 action. Notwithstanding the Planning Board's recommendation to Section 50-35(f), after
9 the board approves a preliminary plan, another agency must not require a substantial
10 change in the plan. The word "substantial" should be deleted, as it is subjective and open
11 to interpretation, and thus potential for further delays. We look forward to working with
12 members of the Council and staff in future worksessions relating to these legislative
13 matters to achieve a balanced solution that works for all involved in the development
14 review process. Thank you for your time.

15
16 COUNCIL PRESIDENT ANDREWS:

17 Thank you, Mr. Bossong. And going back to your earlier comment about Kathleen
18 Boucher, I agree -- any organization would benefit from having Miss Boucher in their
19 employee, so... Miss Boucher used to work for the County Council, so I know of what I
20 speak. All right. Bill Kominers is our next speaker.

21
22 BILL KOMINERS:

23 Good afternoon, President Andrews and members of the Council. I'm Bill Kominers, an
24 attorney with Holland & Knight in Bethesda. I'm here speaking as an individual today. The
25 legislation that's before you is spawned by frustration -- frustration with a process that is
26 so laborious that even making obvious and correct decisions takes too long and costs too
27 much. This translates into high costs to the ultimate consumer, but it also results in some
28 people saying, "Enough. I'm not looking in Montgomery County any longer. The wall is
29 stronger than the head I have been beating against it." The legislation is unfortunately
30 necessary because of the natural tendency of each government agency to want to
31 achieve 100% of its own goals. Conflicts then arise because there is a reluctance or an
32 inability to look at the big picture, moderate that 100% to balance competing needs, and
33 make that judgment of balance while keeping in mind the production of a particular
34 product for a particular market at a particular point in time. I want to provide some
35 examples -- two real, two hypothetical. Each of these real conflicts did reach a solution.
36 Each was worked on diligently by the government agencies involved, but the time and
37 cost to reach the solution was far out of proportion to the problem presented. And let me
38 emphasize, the problem was with the process of resolution, not the people making the
39 decisions. The Department of Transportation has a policy -- not a law, a policy -- that calls
40 for 100 feet of separation between adjoining driveways. The first case involves an urban
41 area with a driveway probably 25 feet from the driveway to County facility. The plan is



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1 already approved. The applicant sought to amend the plan and adjust the driveway very
2 slightly. At that point, he was advised that the driveway violates the separation policy and
3 has to be moved to provide the 100 feet. Now, the site doesn't have much more than 100
4 feet of frontage altogether, and the building design wasn't changing, so the driveway
5 wanted to remain in the same place. Most importantly, the driveway had been approved
6 before. It was in the approved plan. So resolution of this required a waiver request,
7 revisions to the request, traffic studies, other detailed engineering, and most of all, time.
8 Second, some small urban lots, each with about 50 feet wide, each with an existing
9 driveway. Due to streetscape and pedestrian goals, the applicant proposed access from
10 somewhere other than the street, so the driveways could be eliminated. Planning Board
11 staff supported this. DOT wanted the driveway entrance from the street, not the
12 alternative. However, if access was provided by the street, it would need a waiver,
13 because the new driveway would not be 100 feet from the ones on either side. The
14 applicant suggested using the existing driveway to the property. They were told that too
15 would require a waiver, even though it existed. Again, resolving it took time, effort, and
16 most importantly, that time. Hypothetically, the Planning Board approves a preliminary
17 plan with a street configuration and cross section. Can't get a permit because it doesn't
18 meet the DOT road cross section, or DOT approves a road cross section, and then you
19 can't build it because Fire and Rescue says, "It's too narrow. It doesn't meet our
20 emergency equipment." In the middle of each of these disputes is the applicant, trying to
21 get agencies together to make a balanced decision. Oftentimes, the applicant is willing to
22 do whatever each agency wants, so long as they'll agree. The process needs to be fixed,
23 but it needs a higher level input for resolution than just the DRC. Attached to my testimony
24 is a markup of the legislation with specific comments on the legislation, and a markup of
25 the bill, as well. Thank you.

26
27 COUNCIL PRESIDENT ANDREWS:

28 Thank you, Mr. Kominers. Our next speaker will be David O'Bryan.
29

30 DAVID O'BRYAN:

31 Hello. I'm David O'Bryan with Charles P. Johnson & Associates. We do land planning,
32 surveying, and engineering in Montgomery County. We use this process on a daily basis.
33 I'm here to lend credence to what Bill just said. When we go through this process, very
34 often we have to mediate the conflicts that occur between the agencies. Every agency has
35 their mandate. They're trying to do what they think is right. Often, they are not in concert
36 with each other. There are conflicts that need to be resolved. We need a certain process
37 in order to resolve those conflicts. Right now, the process does not have certainty. We try
38 to meet, we try to get people to agree, there's some compromise, maybe there's not
39 compromise, maybe people are butting heads. It can take months sometimes to do this.
40 And I understand right now, very recently, there has been a change in the way that they're
41 trying to resolve things. And that's great. That's a good first step, and I applaud the fact

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1 everybody is doing that, but my concern is, as time goes on, there's no guarantee of
2 timeframe or certainty to the process that's set up. And so if one agency says, no, my
3 issue is more important than your issue, how do we resolve it? How do we get to a final
4 answer? And that's -- that's my concern with the process we've had, with where the
5 process is going, and that's why I think this legislation is necessary to lend some certainty
6 to the process.

7
8 COUNCIL PRESIDENT ANDREWS:

9 Thank you, Mr. O'Bryan. And there are no questions for this panel, so you're excused,
10 and we have two more speakers on this issue, and then we'll be going to the public
11 hearing that is related -- involves the Webb Tract, so... Our Group B on this public hearing
12 will be Steven Morrison and Kathleen Kulenguski. And again, please introduce yourselves
13 -- introduce yourself when you speak. When the yellow light goes on, you have 30
14 seconds to go, and if you have written testimony, please give it to the clerk to my left,
15 and... All right. And, Mr. Morrison, you're first.

16
17 STEVEN MORRISON:

18 Thank you. My name is Steven Morrison. I'm a member of the Mid-County Citizens
19 Advisory Board and their delegate to the Permitting Services Advisory Board, which
20 makes me very familiar with this problem. I am speaking here as an individual. My -- my
21 view on this is that the Montgomery County government is wonderful in its -- in the context
22 -- if it's an appropriate context, and I've often tried to put it in an appropriate context. The
23 one I've come up with is something in the medieval Dark Ages where it is a feudal system
24 where everybody is their own prince, their own bit of nobility, their own -- their own --
25 defending their own territory. It seems to me that this is a ridiculous system that has been
26 built up over ages, over decades, where the County Council and the County Executive
27 have put in various mandates that are not internally consistent, not internally uniform, not
28 internally resolvable. When I went to law school -- a long, long time ago -- one of the
29 fundamental principles that was there -- that was articulated was that equal treatment
30 under the law. And that principle was fundamental to learning U.S. law. You can't get
31 there from here, with all the various codes in the individual offices of the Executive
32 agencies and the other agencies that exist. You've got to have something that's more --
33 that's not focused on this resolving in this particular way. One of the concerns that was
34 expressed by somebody who was on our Permitting Services Board, was that the decision
35 by a few chosen people would be very parochial -- that it would, it would advance the
36 interests of subagency over another. That, to me, seems to be particularly impressive. I
37 just don't see the -- the support for this -- this kind of solution. It's not the right solution.
38 The problem is real, though. There's one other thing. This is not only a problem that
39 pertains to the building industry. It also pertains to other things that ordinary citizens have
40 to do with -- with -- with the County government. I don't have time to go into that right now,
41 but there are other problems.

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1
2 COUNCIL PRESIDENT ANDREWS:

3 OK. Thank you, and thank you for volunteering your time through the Mid-County Citizens
4 Advisory Board.

5
6 STEVEN MORRISON:

7 I'm speaking as an individual.

8
9 COUNCIL PRESIDENT ANDREWS:

10 I realize that.

11
12 STEVEN MORRISON:

13 OK.

14
15 COUNCIL PRESIDENT ANDREWS:

16 Our next speaker will be Kathleen Kulenguski.

17
18 KATHLEEN KULENGUSKI:

19 Hello, Mr. President and Councilmembers. My name is Kathleen Kulenguski, and I'm a
20 planner and a landscape architect with Vika, Inc., a land planning and civil engineering
21 firm located in Montgomery County. I have been processing development plans in
22 Montgomery County for longer than I'm willing to admit here, and my gray hair is a
23 testament to some of the frustrations encountered in that effort. This bill would be
24 extremely helpful and greatly needed if it could accomplish two things. It should put
25 decisionmakers together in the same room, instead of representatives who have limited
26 authority to make decisions that is outside the strictures of their agency's policy, and it
27 should set a time limit for the decision. The types of problems we face are more often than
28 not known areas of differing opinions amongst the agencies. They can also be new issues
29 and do not necessarily have to be project-specific. Sometimes these issues are -- already
30 have a long history of disagreement between the agencies. They require creative
31 solutions that each agency finds acceptable so -- but the tendency is to put off dealing
32 with them because they are not straightforward solutions. The reviewers know at the
33 interagency pre-DRC meeting held before the Development Review Committee meeting
34 that there is a potential for conflict. The reviewers have seen the applicant's plans, and the
35 wheels could start turning at this time to begin to find a solution, but normally they wait
36 until they meet with the applicant at the Development Review Committee meeting, where
37 the issue is spelled out, but even not dealt with then. It is left to the applicant to both
38 initiate the interagency discussions and propose numerous alternative solutions. After the
39 applicant has put together a waiver request package and unsuccessfully approached each
40 agency representative in an effort to find a compromise, then the agency -- the joint
41 agency meetings start. During this period of time, it feels like figuring out delay tactics are

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1 where all the creative juices are spent. I have been involved in a project where the delay
2 was more than a year. An example of a situation where I encountered difficulties was a
3 road project. The low point in a public road was also a stream crossing where storm water
4 management facilities had no place to go but the stream valley buffer. The agencies
5 involved were DPS, who prefers surface facilities because they are more effective and
6 easier to maintain, and M-NCPPC, who wanted no stream valley buffer impacts, and
7 DOT, who does not allow facilities in the right-of-way because DOT would have to
8 maintain them rather than DEP, who normally maintains storm water management
9 facilities. These are all important considerations, but not mutually attainable goals. The
10 simple solution would have been a surface facility in the buffer. A waiver request was
11 submitted. Park and Planning determined that it couldn't be done in this class stream.
12 DOT ended up accepting the facility in the right-of-way -- a pretreatment facility in the
13 right-of-way. DPS accepted an underground vault, and Park and Planning, a stream valley
14 buffer. It took six months. That's how long the whole process should take.

15
16 COUNCIL PRESIDENT ANDREWS:

17 Thank you. I'm going to have to stop you there because the time is up, but I wanted to
18 give you a chance to complete the thought. So we can read the remainder of the
19 testimony.

20
21 KATHLEEN KULENGUSKI:

22 OK. Thank you.

23
24 COUNCIL PRESIDENT ANDREWS:

25 Thank you very much.

26
27 COUNCILMEMBER KNAPP:

28 Mr. President, if I might, before we get to the next, just a --

29
30 COUNCIL PRESIDENT ANDREWS:

31 Actually, Councilmember Floreen is -- is next. So Councilmember Floreen, and then
32 Councilmember Knapp.

33
34 COUNCILMEMBER FLOREEN:

35 Thank you. Thanks very much for your comments, folks. This was in response to the
36 report of the DPS Advisory Group last year. Jeff, when we get to this, could you check in
37 with the office -- Department of Economic Development? We heard the other day that
38 there was an effort there to improve this process. I'm delighted to hear that Mr. Hanson
39 and Miss Boucher think things are going so swimmingly. Perhaps we could get a specific
40 update on what exact -- what exact improvements have been employed and also contrast
41 this with the development approval process materials from our use, where I believe a lot

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1 of -- certain elements of this have been put in place previously, and if we're there again,
2 that would be great. Thank you.

3
4 COUNCIL PRESIDENT ANDREWS:
5 Thank you. Councilmember Knapp.

6
7 COUNCILMEMBER KNAPP:
8 Sorry, Mr. President.

9
10 COUNCIL PRESIDENT ANDREWS:
11 That's all right.

12
13 COUNCILMEMBER KNAPP:
14 Just a point of order -- something we needed to address from this morning's item. We
15 actually need to amend the Consent agenda and add a supplemental item to extend the
16 time for action on G-878, which is the zoning case we heard this morning. We need to
17 extend it from August 24, which is when it currently would expire, to September 30, in
18 order for the Hearing Examiner to get -- and our attorneys to get information back to us.

19
20 COUNCIL PRESIDENT ANDREWS:
21 OK. All right. We'll take that up in just a minute. I want to -- there's one more question on
22 this, then we'll come right back to that in between the public hearings. So, Councilmember
23 Elrich.

24
25 COUNCILMEMBER ELRICH:
26 I was wondering whether I could get the chairman of the PHED Committee to indulge as
27 having a worksession and bringing some of the firms that have done work, both in the
28 County and other counties. When I was -- I've been to a presentation that was a
29 comparison of the Montgomery County and Howard County approval process. I think
30 Nancy has gone to a similar presentation, and I understand that Mr. Silverman attended
31 something similar. And I think it would be useful to have that presentation done publicly
32 and to have a discussion about the more, I think, far-reaching process changes that, I
33 think, go beyond what's in this bill and also, I think, go beyond what Kathleen and -- and
34 Royce talked about. Because one of my concerns is, I don't want anything left to the ability
35 of two groups to work together. I mean, it's really good that they're working together and
36 it's more cooperative, but that's only -- lasts as long, we know, as two people feel like
37 talking to each other, and we need processes that transcend personal relationships or
38 interest in getting along. We need processes that are permanent and fixed and everybody
39 can count on. So I'm sure that whatever they have to contribute about what they've
40 changed would be useful, but I do think we need the bigger discussion.

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1 COUNCILMEMBER KNAPP:

2 No, I think it's a great idea, and that means we will now fill up our Fridays. We're meeting
3 Mondays, Tuesday, and Thursday. Now we can start Fridays. But that's OK. We're going
4 to spend a lot of time together. So I think -- but I think you're right. I think it is something
5 we need to have a broader presentation on, so we just need to figure out when to fit it in.
6

7 COUNCIL PRESIDENT ANDREWS:

8 OK. Thank you, Councilmember Elrich, and Councilmember Knapp as well. That
9 concludes this public hearing. Thank you all for testimony on that. We are getting some
10 more testimony, but I think if -- Councilmember Knapp, if you want to make a motion on
11 the matter you just referred to. I think we would be taking this action as the District
12 Council. Is that right?
13

14 JEFF ZYONTZ:

15 Yes. Just procedurally, you have to have the consent of the body to amend your agenda
16 to add this item as a supplemental item.
17

18 COUNCIL PRESIDENT ANDREWS:

19 All right. This is a --
20

21 COUNCILMEMBER KNAPP:

22 We have to extend the time to act on the zoning case we heard this morning, G-878. Right
23 now, it expires on August 24. We need to extend -- there's a -- I'll make a motion to
24 extend the time for action from August 24 to September 30.
25

26 COUNCILMEMBER LEVENTHAL:

27 Second.
28

29 COUNCIL PRESIDENT ANDREWS:

30 All right. So that's moved and seconded. Let me make sure that there is the consent of the
31 body to amend the agenda for that purpose. Hearing no objection, we are amending the
32 agenda to allow the consideration of the extension of time for the Council action on Local
33 Map Amendment G-878. Councilmember Knapp has moved that, and that would extend
34 the time for consideration until September...when?
35

36 LINDA LAUER:

37 30.
38

39 COUNCIL PRESIDENT ANDREWS:

40 OK. September 30, 2009. It's moved by Councilmember Knapp.
41



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1 COUNCILMEMBER TRACHTENBERG:
2 Second.
3
4 COUNCIL PRESIDENT ANDREWS:
5 Seconded by Councilmember Trachtenberg. All right. Any discussion? All those in favor of
6
7 JEFF ZYONTZ:
8 A roll call vote, please, because it's --
9
10 COUNCIL PRESIDENT ANDREWS:
11 All right. OK. All those will be responded by roll call vote, so the clerk please call the roll
12 on the motion to extend the time for consideration of 878.
13
14 LINDA LAUER:
15 All right. Mr. Elrich.
16
17 COUNCILMEMBER ELRICH:
18 Yes.
19
20 LINDA LAUER:
21 Miss Trachtenberg.
22
23 COUNCILMEMBER TRACHTENBERG:
24 Yes.
25
26 LINDA LAUER:
27 Miss Floreen.
28
29 COUNCILMEMBER FLOREEN:
30 Yes.
31
32 LINDA LAUER:
33 Mr. Leventhal.
34
35 COUNCILMEMBER LEVENTHAL:
36 Yes.
37
38 LINDA LAUER:
39 Miss Ervin.
40
41 COUNCILMEMBER ERVIN:

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1 Yes.

2
3 LINDA LAUER:
4 Mr. Knapp.

5
6 COUNCILMEMBER KNAPP:
7 Yes.

8
9 LINDA LAUER:
10 Mr. Berliner.

11
12 COUNCIL VICE PRESIDENT BERLINER:
13 Yes.

14
15 LINDA LAUER:
16 And Mr. Andrews.

17
18 COUNCIL PRESIDENT ANDREWS:

19 Yes. So the Council has voted 8-0 to extend the time for consideration of the matter in
20 question, so... Thank you, and we will now get back to our regular order of business and
21 the public hearing on a supplemental appropriation to the FY09 Capital Budget and
22 amendment to the FY09-14 Capital Improvements Program for the Department of Police,
23 Montgomery County Fire and Rescue Service, Montgomery County Public Schools, and
24 Maryland-National Capital Park and Planning Commission in the amount of \$48,316,000
25 for Smart Growth Initiative - Public Safety Training Academy and Multi-Agency Service
26 Park (Webb Tract). Persons wishing to submit additional material for the Council's
27 consideration should do so before the close of business Thursday, September 10, 2009. A
28 joint Public Safety and Transportation, Infrastructure, Energy and Environment Committee
29 worksession is tentatively scheduled for Thursday, September 17, 2009. We have 13
30 speakers for this public hearing, and we'll bring them up in the three panels. Our first
31 panel will be David Dise, representing the County Executive, Robert Thompson,
32 representing the Upcounty Citizens Advisory Board, Marilyn Balcombe, representing the
33 Gaithersburg-Germantown Chamber of Commerce, Terry O'Grady, representing the Mid-
34 County Citizens Alliance, and Peter Fosselman, representing the Smart Growth Initiative
35 Task Force. And I see that Mr. Dise is joined by Chief Richie Bowers of our fire service
36 and Chief Tom Manger of our police department. Welcome to you all, and, Mr. Dise, you
37 are first.

38
39 DAVID DISE:

40 Thank you very much. Good afternoon. I'm David Dise, director of Department of General
41 Services, and I'm pleased to present testimony on behalf of County Executive Isiah

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1 Leggett. This request is to purchase the 129-acre industrially zoned Webb Tract and to
2 perform Master Planning for that site. This purchase is a key step in the implementation of
3 the Smart Growth Initiative that puts in place important public policies for future jobs and
4 provides housing at mass transit locations. The initiative recognizes that we must decide
5 now how and where we will grow over the next 20-30 years. For quality of life and
6 environment, we need to ensure now that these locations will be oriented to mass transit.
7 The existing PSTA is an incongruous fixture amidst the universities of Shady Grove,
8 Johns Hopkins, and the Shady Grove Life Sciences Center. Both the universities and
9 Hopkins are both expanding their academic programs at the Life Sciences Center. To
10 realize the goal of transit-oriented development, a nearby mix of housing types and
11 market points for a life/work/play quality of life will be increasingly necessary and
12 important. Most properties in this area contain title restrictions that preclude any
13 meaningful housing on those sites, and that leaves the 52-acre PSTA site, which must be
14 cleared before housing and for the Corridor Cities Transitway. Now, the County was
15 visionary nearly 40 years ago and has enjoyed much success with our Life Sciences
16 Center, and while we have a significant position in the biosciences industry, other states
17 and cities are surpassing us, and competition continues to mount within Maryland, as well
18 as internationally. Standing still quickly becomes moving backwards, and for our
19 residences, business, and economy, we can't allow that to happen. The current PSTA is a
20 facility in need of major renovation. There's an existing project under which an estimated
21 \$33 million will be spent to perform renovations, but only to the academic building.
22 However, in performing this work and any other facility improvements at PSTA, we'll be
23 foreclosing opportunities for the next 20-30 years at that site, because to expend
24 significant funds on this site and then abandon it sooner is fiscally irresponsible. We need
25 -- we intend to close the project, therefore, and use those funds and land sale proceeds
26 toward acquiring and developing a new PSTA that will provide best practices in public
27 safety training. Acquiring the Webb Tract will also enable us to implement the majority of
28 the Shady Grove Sector Plan. At the Webb Tract, we'll located the food distribution
29 warehouse for schools, as well as the schools maintenance facility, Park and Planning
30 maintenance facility, leaving only the buses at the Shady Grove Service Park, and we're
31 working with schools to complete that issue. The Webb Tract has an approved site plan to
32 build 23 warehouse-type buildings. We will place on the site four governmental functions
33 with far fewer buildings and a significant reduction in both the traffic and environmental
34 impact. We continue to actively engage with the communities in the surrounding area and
35 will continue to ensure that our uses are well designed and that our operations prove us to
36 be a good neighbor. We cannot afford to make our needed investments in the wrong
37 place and foreclose on the ability to create things in the future, which is why the County
38 Executive urges the County Council to approve full funding for the acquisition of this
39 property without delay. And I also want to acknowledge and thank my colleagues to my
40 right, both fire and police chiefs, for their tremendous support and participation in this
41 process and working with the community.

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1
2 COUNCIL PRESIDENT ANDREWS:

3 Thank you, Mr. Dise. Our next speaker will be Robert Thompson, representing the
4 Upcounty Citizens Advisory Board.

5
6 ROBERT THOMPSON:

7 Good afternoon, Mr. President. Again, my name is Robert Thompson. I'm representing the
8 Upcounty Citizens Advisory Board. The Upcounty Citizens Advisory Board has continued
9 to monitor activities related to County's Smart Growth Initiative to relocate County facilities
10 and functions from the Shady Grove Metro area to other sites central to the County --
11 other sites important to the County. UCAP representatives will continue to participate in
12 Shady Grove Sector Plan implementation growth and on the Smart Growth Initiative
13 Implementation Advisory Group in order to help identify issues and solutions. The board
14 has previously testified before the County Council stating its support for the Executive's
15 Smart Growth Initiative that will meet the present and future needs of the County
16 government to clear the Shady Grove Metro area for approved and to house daily
17 government functions in updated and safer facilities. The benefits reaped from this
18 initiative will support our growing and changing workforce, our economic development
19 goals, housing needs, cleanup and redevelopment of old industrial sites, as well as
20 protecting our investment in technology and life sciences, while leveraging our assets. We
21 are here today in specific support of the County Executive's supplemental appropriation
22 request to add \$48 million to the County's FY09 capital budget to relocate the PSTA from
23 the Shady Grove Life Sciences Center to the new County Multi-Agency Service Park
24 Webb Tract. Redevelopment of the PSTA for high-value investment and usage is an
25 important component and building block to the creation of the dynamic, mixed-use, life
26 sciences-oriented community envisioned in the Gaithersburg West Master Plan.
27 Relocating the PSTA is an important step toward moving this vision forward. I work -- I live
28 in Darnestown, and work across the street from Shady Grove Hospital, so I passed by this
29 site every single day. I moved here 11 years ago, and when I would drive by at the
30 intersection of Key West and Great Seneca every day, I used to look at that site and
31 wonder, "Why do they have that next to the biotech center?" It just -- that was my initial
32 impression, and it seemed somewhat incongruous to me. The last comment is, is that we
33 are in extraordinary economic times right now. I don't know -- and we don't know. We are
34 not privy to every specific economic challenge that -- in question that the Council is facing
35 these days. We are in favor of this conceptually, and we are in favor of the long-term
36 vision. The absolute timing has to be up to those who know those details and control
37 those purse strings. So with that, I thank you.

38
39 COUNCIL PRESIDENT ANDREWS:

40 OK. Thank you, Mr. Thompson. Our next speaker is Marilyn Balcombe, representing the
41 Gaithersburg-Germantown Chamber of Commerce.



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1
2 **MARILYN BALCOMBE:**

3 My name is Marilyn Balcombe. I'm the executive director of the Gaithersburg-Germantown
4 Chamber of Commerce. Thank you for listening to us this afternoon. The Gaithersburg-
5 Germantown Chamber of Commerce supports the County's efforts to implement the
6 Shady Grove Sector Plan and to further develop the Shady Grove Life Sciences Center.
7 In order to implement these important economic development initiatives, the chamber
8 supports the relocation of County services from the impacted geographic areas. To that
9 end, the chamber supports the supplemental appropriation request of 48 million for the
10 County's capital budget to amend the current CIP to purchase the Webb Tract. These
11 funds will be used in support -- to support the County's Smart Growth Initiative, specifically
12 for the relocation of the Public Safety Training Academy from the Shady Grove Life
13 Sciences Center to Multi-Agency Service Park. The chamber strongly supports the vision
14 for the Gaithersburg West Master Plan area as an important addition to the I-270
15 technology corridor. This plan will foster the creation of new employment in close
16 proximity to a range of housing opportunities, mass transit, shopping, recreation, will
17 create a lively walkable community that's people-oriented rather than automobile-oriented.
18 We also see this move as part of the overall implementation of the Shady Grove Sector
19 Plan, which will transition the Shady Grove Metro station from warehouses to residential,
20 with safe pedestrian accessibility. By moving the PSTA now, prior to the building of the
21 CCT, we can avoid the very mistake that we're trying to fix with the Shady Grove -- the
22 Shady Grove Metro. By having nonresidential -- nonresidential uses near mass transit,
23 that's not taking best advantage of mass transit, and we need to do that for Corridor Cities
24 Transitway, as well as the Shady Grove -- as well as Shady Grove Metro. As a Chamber
25 of Commerce, we're fully aware of the tough economic times we're in, but we must
26 continue to shape our County for the future, and we feel these Smart Growth Initiative
27 helps to move us in that direction. Thank you for your consideration.

28
29 **COUNCIL PRESIDENT ANDREWS:**

30 Thank you. Our next speaker will be Terry O'Grady, representing the Mid-County Citizens
31 Alliance.

32
33 **TERRY O'GRADY:**

34 Hi. I'm Terry O'Grady, Mid-County Citizens Alliance. "Apprehensive," "lack of trust" are
35 words that describe the feeling of the communities regarding the purchase of the Webb
36 Tract. The County has been unable to present a concrete plan to the community.
37 Communities have been told it's going to be state of the art, but we still don't know what
38 the state of the art is. It's like a car salesman -- "Hey, I'm going to sell you a car, but you're
39 not going to know what color it is or whether it's got seats or airbags, but you're going to
40 like it. OK?" That's what we've been told. The County has ambitious plans for Science
41 City/Shady Grove Metro area, focusing on developing and outstanding, vibrant community

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1 -- the showcase of Montgomery County and the state. Great for the folks that are going to
2 be living on Science City and the Shady Grove Metro area, but to achieve these goals, the
3 County needs to relocate the undesirable facilities at Shady Grove and the PSTA at a
4 price disrupting established communities, quality of life, and in the long run, more financial
5 responsibility to the County. How will the communities that surround the Webb Tract
6 benefit from the relocation of these facilities? The answer that was given to us -- less
7 traffic. This is an assumption. The Webb Tract has been zoned I-4 for 25 years. It is sitting
8 vacant. Why? Low-flying aircraft, no access roads, and surrounded by residential
9 communities. Widening of Snouffer School Road will not alleviate the traffic congestion,
10 but will increase congestion on Snouffer School Road. Snouffer School Road it narrows
11 into two lanes at Woodfield and at Wightman Road. The County facilities are now centrally
12 located to major roads. If the Council approves the purchase of the Webb Tract, we are
13 requesting the County agree to implement concessions that will maintain and enrich the
14 quality of life of the residents of the surrounding Webb Tract -- Lot 7, which is about 7
15 acres, and Lot 6, which is about 2 acres, which abuts East Village. We are asking that the
16 County deed all of Lot 7 and a part of Lot 6 to the community to be maintained as a park,
17 not the 370 feet they offered. Move the race track further away from the community and
18 build a sound wall, not the trees the County has offered. Facilities that start at 3:30 in the
19 morning do not belong in a residential community. Residents don't want to hear the
20 concessions cost too much or sound walls don't work. Concessions to the community
21 should be the top priority, considering the negative impact. Concessions costs are just a
22 drop in the bucket considering the millions of dollars this Council has been asked to
23 approve for the development of Science City and Shady Grove. Purchase of property,
24 going green, et cetera -- millions of dollars. Honestly, what is the bottom line on this
25 project? Mid-County Citizens Alliance Group has been working and listening to the
26 County. We've been hearing a lot of nothing, and nothing is concrete. Now is the time for
27 the County, if the purchase of the Webb Tract is approved, to agree to concessions and
28 give back to the community, not just the quality of life and tell them that this is smart
29 growth. Smart growth is for everybody's benefit. Remember, one of your former
30 colleagues said, "Why destroy one community to make another community to make
31 another community look great?" And in your packet, there is a natural history survey of Lot
32 7, conducted by Dr. Aiuto and pictures from the deck of a resident with 100 feet and 370
33 feet so you can see how close it will come to the community and the residents concerned.
34 Thank you.

35
36 COUNCIL PRESIDENT ANDREWS:

37 Thank you. Our final speaker on this panel is Peter Fosselman, representing the Smart
38 Growth Initiative Task Force.

39
40 PETER FOSSELMAN:

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1 Good afternoon, Mr. President, Councilmembers. Thank you for hearing me. I'm not sure
2 what happened, but I've lost half the Council, and I haven't even spoken yet, so... For the
3 record, my name is Peter Fosselman, and I'm here today to speak in support of the PSTA
4 and Multi-Agency Services Park, known as the Webb Tract. I happen to be a member --
5 the at member -- excuse me, the at-large member for the County Executive's Smart
6 Growth Initiative Task Force. The PSTA and Webb Tract are part of an overall strategy for
7 the Smart Growth Initiative. This is good for the economy, and this is good for our County.
8 This initiative leverages planned projects, land values, and increased revenues to relocate
9 aged, obsolete facilities to sites that are not transit-oriented. These moves then free up
10 opportunities for the best of the East County properties that are in close proximity to our
11 budding high-technology, biotechnology, and academic facilities. Benefits of this new
12 project: provide jobs for our children and our children's children; capacity to train
13 tomorrow's workforce for higher-quality jobs and jobs that pay; promotes economic
14 development, a healthy economy to sustain quality of life, services, and opportunities;
15 drawing businesses with the lure of a well-trained workforce; generating revenue so that
16 financial burdens for public services are better distributed. This is good for the economy,
17 and this is good for County. Sufficient amounts of mixes of housing and adequate amount
18 of affordable housing near mass transit -- thus, transit-oriented planning, which is what
19 much of the Planning Department and the County is basing their new-age urbanism and
20 planning techniques on -- transit-oriented development. Using existing and planned mass
21 transit, housing placed to reduce reliance on the automobiles, creating live/work/play
22 communities, and by reducing automobile trips. The redevelopment and cleanup of old
23 industrial sites. New designs standards resulting in greater green areas, green
24 construction, and more efficient design. This is good for the economy, and this is good for
25 Montgomery County. Protection of the County investment of life sciences and technology.
26 We need to be competitive at many levels -- state, national, and international levels.
27 Overdue and necessary investments in County government facilities have been on the
28 books for too long. These difficult economic times present a unique opportunity for
29 Montgomery County. The purchase of the Webb site is important for the following
30 reasons. The Public Safety Training Academy may be relocated to the industrial-zoned
31 land so that a live/work, transit-oriented science community may be developed at the
32 Shady Grove Life Sciences Center. This is good for the economy, and this is good for
33 Montgomery County -- good for science, research opportunities, education, communities
34 such as Clarksburg and Germantown, as it helps to support the implementation of the
35 Corridor Cities Transitway. The relocation of the PSTA is critical. Last good reason to
36 support this is, the County has begun implementation of the vision of the Shady Grove
37 Sector Plan, approved by the County Council. The purchase of the Webb Tract allows for
38 Park's maintenance facility, the schools' maintenance facility, the schools' food distribution
39 warehouse, and to be relocated, the Sector Plan vision may be implemented. This is good
40 for the economy, and it's good for Montgomery County. Thank you.

41

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1 COUNCIL PRESIDENT ANDREWS:

2 OK. Thank you, Mr. Fosselman, who is also the mayor of Kensington in another capacity.
3 Good to see you. Councilmember Knapp has a question or a comment.

4
5 COUNCILMEMBER KNAPP:

6 Thank you, Mr. President. I commend everyone for getting on message and staying there.
7 That was impressive. I would like to note, though, a couple of things, because it sounds as
8 though all of the -- all of the elements that have been discussed are all kind of contingent
9 upon one another, and the reality is that they're not necessarily. Four years ago, or five
10 years ago now, the Council approved the Shady Grove Master Plan, which kind of served
11 as the -- as the facilitator for a lot of this dialogue. And one of the -- or the key elements
12 that are still at Shady Grove that this plan will likely -- would need to move or would need
13 to have the portion of the Webb Tract for is the relocation of the County's -- Park and
14 Planning's and the school system's maintenance facilities. And one of the -- what we have
15 before us, though, is a PDF for, I think, \$48 million for the purchase of the entire parcel.
16 What I would like get a -- as this comes back to committee, is to get some alternatives as
17 to what would need to occur in order for there to be a potential splitting of the parcel. I
18 know there are two separate parcels there. If the Council wanted to go ahead and move
19 forward with acquiring enough land to relocate those two elements that exist within the
20 Shady Grove Service Park right now, which are those -- the schools and Park and
21 Planning -- what would we need to do to be able to make that happen? Because I think
22 that's a point that needs to be addressed. Also, today we had a somewhat sobering
23 conversation as to the County's fiscal outlook, and it's my understanding that to finance
24 this, there could be a couple of different mechanisms, either GO bonds or short-term debt,
25 either of which is going to require us to -- it's going to increase the amount of bond
26 payments that we would have to make on a regular basis above what the Council had
27 already identified within the CIP, since most of our CIP is already programmed. To the
28 extent that there is a mechanism how we're going to pay for that in the short term, I think
29 that's going to be important to understand, because given the presentation we had today,
30 there isn't any more money. So if there are programs that are already scheduled in our
31 CIP -- in particular, there are a number of schools that we had to push off two years, one
32 and two years depending upon which of the highs schools it is -- I can't see how adding
33 \$50 million in additional debt is not going to potentially impact that schedule if we can't
34 increase our debt capacity. And so I'd like to get a sense as to how those pieces interact
35 with each other. Also, I sat in on one of the committee meetings. I think it's going to be
36 very important for us to have an understanding of what is the Program of Requirements
37 between the renovations or the improvements of the training academy at its existing site
38 and then the Program of Requirements at the new site. I agree with Miss O'Grady that
39 there has been discussion that this going to be state of the art. The reality is, though, we
40 haven't been able to define what state of the art is yet in something that we can compare
41 and contrast, and so we need to be able to do that and understand what the costs are

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1 associated with each so we can actually take -- make a pretty informed decision. And then
2 the other piece I would be kind of curious -- this came up again, that we're going to sell
3 the parcel that contains the training academy, and to -- if we have some idea as to what
4 the timing of that might be and to how that's going to play out. In addition, do we have a
5 sense of how much additional residential development we need in the immediate vicinity
6 of the Life Sciences area? Because we already have, I believe, more than 2,000 housing
7 units identified for the Crown Farm, which is currently going through bankruptcy because
8 the market is so poor. And so I'm kind of curious as to how having that parcel immediately
9 adjacent to this development could potentially impact the price of the land for the training
10 academy, because I think that's going to be a compelling piece. And with that -- I think
11 those are the biggest pieces I think we need to get. It is important -- and I was serious. I
12 mean, I think you gave some very good testimony that ties a lot of pieces together that
13 makes it sound like this has to be taken as one big package, and I know that would be the
14 ideal scenario on the part of some, but the reality is, there are a lot of moving parts here,
15 and it's not necessarily -- well, it doesn't have to happen at all, that these pieces have to
16 be done together. There is the Shady Grove piece, which I think has to be done so we can
17 clear out the Shady Grove site so we can allow for the Master Plan vision to be adopted
18 there. Once you kind of get past that, the rest of it, we can pretty much make do with what
19 we need to. And so I think it's important for us to make sure we understand what the
20 package is and what are the pieces that can be separated from one another, and
21 hopefully in the course of the coming weeks, we can get more information and be in a
22 position to either make a better decision or maybe get enough information to determine
23 that no decision is the best decision. So I appreciated everyone's testimony and look
24 forward to working with you all in the coming weeks.

25
26 COUNCIL PRESIDENT ANDREWS:

27 Thank you, Councilmember Knapp. I think those are important questions you identified.
28 Councilmember Elrich.

29
30 COUNCILMEMBER ELRICH:

31 Added to the list of things that would be useful would be, the community has raised a lot of
32 issues about mitigation, and I think we need to know what the cost of the mitigation is
33 because I think it needs to be planned for in this project. We can't -- and I agree strongly
34 with the community on this. We can't move this stuff and then say we don't have enough
35 money to mitigate it. That's not going to work. And so if we can't do it right, we shouldn't
36 do it at all. So we need to what it's going to cost to do right so that's factored in there, and
37 if that -- if it means that it costs us a little bit more, then so be it, if it's what it takes to get
38 the job done. But there's no point in not factoring these things in and then coming in later
39 and saying, you know, we just can't fit this into the budget. We need to know, I think, on
40 the front side of this. So I'd just appreciate getting -- getting numbers that reflect that.

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1 COUNCIL PRESIDENT ANDREWS:

2 Thank you, Councilmember Elrich. I agree also that we need a comprehensive
3 assessment of the costs. So all those are important questions, and I know they'll be more,
4 but that's it, actually, for this particular panel, and we're going to go on to the next panel --
5 thank you -- which will be Bob Hydorn, representing the Montgomery Village Foundation,
6 John Driscoll, representing the Webb Tract Committee, Kevin Linck, representing the East
7 Village Homes Corporation, Don O'Neill, speaking as an individual, and Steve Robins,
8 speaking as an individual. Please remember to introduce yourself at the beginning of your
9 remarks, and if you have any written testimony, please give it to the clerk to my left. The
10 yellow light will go on with 30 seconds to go, and then the red light flashing means please
11 wrap up the sentence that you may still be on. Mr. Hydorn, you're first.

12
13 BOB HYDORN:

14 Thank you, I appreciate, before I really start hearing the questions and comments by the
15 Councilmembers. I'm Bob Hydorn. I'm president of the Montgomery Village Foundation
16 Board of Directors. I am also chair of the MVF -- what's called Webb Tract Committee,
17 representing Montgomery Village, over 40,000 residents in just Montgomery Village, not
18 counting the Webb Tract, representing people outside of our boundaries of the village.
19 Our County Executive Leggett has been working diligently to bring smart growth around
20 Shady Grove Metro station and to plan, in partnership with Johns Hopkins University, an
21 expansion of Life Sciences Center, commonly called Science City. We understand the
22 Smart Growth vision that this brings, and it will bring jobs. New housing will bolster
23 Montgomery County's reputation as the leader in fields of biotechnology and sciences. To
24 facilitate the Smart Growth vision, the County Executive's staff has pulled together a
25 group of agencies, all vying for nice, new expansive facilities to house their operations and
26 train their employees. The police and fire chiefs clearly have been behind the effort to
27 relocate the recently -- in the last few years, there has been modernization at the Public
28 Safety Training Academy, PSTA -- and I would clearly point out that because I'm going to
29 have a PTSA here in a minute -- from North Potomac to the Webb Tract, adjacent to
30 Montgomery Village, an already built-out area. The PSTA facility, with a burn tower,
31 driving track, skills pads, clearly should not be planned at this new location. Nor do the
32 County food warehouse and two maintenance yards should be placed at -- adjacent to
33 communities like this -- like ours. What we do not understand is why those of us who live
34 in Montgomery Village and surrounding communities in the east area of Gaithersburg
35 should take on the burden of County facilities that will be detrimental to the quality of our
36 lives while those in the area of West Gaithersburg will reap all the benefits. We want to
37 know what the County plans to do for our communities. More consideration needs to be
38 given to those who have called this area home for many years. Moreover, during these
39 tough economic times, this is the best use -- is this the best use of County funds, when
40 there are many other priorities. I remain concerned about Gaithersburg High School,
41 whose modernization has been put off for years once. Will it be put off again? I went to

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1 that school. I graduated in 1968. Very little has changed in that building. The County
2 Council needs to keep its promises with the PTSAs and the school community. The
3 Montgomery County Council has an opportunity to stop this divisive plan from becoming
4 reality. We have residents who are becoming angry. Thank you.

5
6 COUNCIL PRESIDENT ANDREWS:

7 Thank you, Mr. Hydorn. Our next speaker will be John Driscoll, representing the Webb
8 Tract Committee.

9
10 JOHN DRISCOLL:

11 Good afternoon. My name is John Driscoll, and I'm a member of the Montgomery County -
12 - Montgomery Village Webb Tract Committee in the Montgomery Village Foundation
13 Board of Directors. It is good to have this chance to share with you our concerns many of
14 us have about the County's proposals to relocate four County facilities to the Webb Tract
15 as part of the County Executive's Smart Growth Initiative. During these tough economic
16 times, when the County's property tax and income tax revenues are declining, we can't
17 believe that the County Council would jeopardize important school public-safety projects,
18 such as the modernization of Gaithersburg High School and the Sixth District police
19 station. All four of the new facilities will be costly to relocate, costing millions of dollars and
20 stressing the County's bond capacity. There is no way that the County can utilize the
21 same assumptions for developing its future bonds sales because of the trends of
22 decreasing property tax assessments and income tax revenues. Again, this means that
23 the funds are going to be drained from longstanding County priorities, such as education,
24 public safety, and transportation. Is the County Council going to be the one to jeopardize
25 the County's AAA bond rating? The relocation of the PSTA is the facility that will break the
26 County's back. To renovate current facilities is the way to go. This will save millions of
27 dollars and allow for the training facilities to be up and running quickly. To put the training
28 facility in the middle of residential homes in Montgomery Village is going to effectively
29 hamstring the limit -- and limit the real training that needs to be done. Isn't this the same
30 thinking that brought us the Transfer Station to the Metro station next to Shady Grove?
31 We hope that you will consider the questions that we have raised and report back to the
32 communities on your findings. Rushing this project through, we think, is a big mistake, for
33 the community and for the County. Thank you for your consideration.

34
35 COUNCIL PRESIDENT ANDREWS:

36 Thank you, Mr. Driscoll. Our next speaker is Kevin Linck, representing the East Village
37 Homes Corporation.

38
39 KEVIN LINCK:

40 Good afternoon. I'm Kevin Linck. I'm the current president of the East Village Homes
41 Corporation. I also serve on the Montgomery Village Foundation Webb Tract Committee.

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1 Thank you for the opportunity to share our concerns about the proposed relocation of the
2 County facilities to the Webb Tract. Our committee is adjacent to the Webb Tract, as you
3 know, and although there have been a lot of meetings with the County staff, we remain
4 concerned about what the County has planned. In fact, the plans have changed
5 frequently, and we still do not feel that we can address a concrete or firm proposal from
6 the County. The concrete -- I mean the Webb Tract is surrounded by three sides by
7 residential communities today. We feel that the -- our property values will decline. The
8 quality of life will be negatively impacted. What we do know is that the PSTA will include a
9 burn building, driving track, and skid pads. These facilities will have many negative
10 impacts to the residential communities that surround the Webb Tract. They include long-
11 term effects of smoke from the burn building, compression of propane from the fire
12 training, diesel and exhaust propellants from the heavy equipment being used in the
13 vehicle maintenance yard, the screaming of brakes as the training vehicles practice on the
14 training driving tracks and the skid pads, sound of the backup beeping noises, and the
15 traffic. We do not want the invasiveness of sound, noise, light, and traffic pollution in our
16 neighborhoods, but we are realistic enough to know that if the relocation of the County
17 facilities comes to fruition, the serious concerns of the nearby residents must be
18 addressed. Concessions are going to have to be made in order to lessen the serious
19 negative impact to the communities. We've provided the list of concessions and questions
20 that have been presented to you before. You should be aware of these, presented to you
21 by both the East Village and the Mid-County Citizens Alliance Group. Many of these were
22 also endorsed by the Webb Tract Committee. Again, Lot 6 and 7 should be maintained as
23 green space in perpetuity. Sound walls should be put up between the PSTA driving track
24 and residential areas. Establish no-driving zones, AKA the route protocol, for driving
25 trucks coming and going from the Webb Tract, avoiding streets on East Village Avenue,
26 Goshen Road, Louisberry Drive, Centerway, and all residential streets. The PSTA burn
27 building should be no taller than four stories high and should operate during normal
28 business hours. We need to see the state-of-the-art plan now, not later. Defining some of
29 these plans for the traffic flow, including plans to safely widen Snouffer School Road.
30 Addressing our concerns about storage of large quantities of propane, diesel fuel,
31 gasoline at the end of an active runway at Montgomery County Airpark. And finally, we
32 want to know what the County will do for residents of East Village, Eastgate, the Greater
33 Montgomery Village area, Hunters Woods, Hadley Farms, and other surrounding
34 communities. The County Council is supposed to be fair to all County residents, and we
35 do not believe that the current proposed -- proposal meets the standard for those of us
36 who see our property values decline and the quality of life negatively impacted. The
37 community must -- one community must not be enhanced at the expense of another. We
38 still need answers for a total plan. Thank you for your consideration.

39
40 COUNCIL PRESIDENT ANDREWS:

41 Thank you, Mr. Linck. Our next speaker is Don O'Neill.



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DON O'NEILL:

Thank you, Phil. I'm Don O'Neill, a resident of Montgomery Village. Citizens are opposed to the relocation of County facilities to the Webb Tract. Inspired by these aroused citizens, HOA boards across Montgomery Village have voted unanimously in opposition to the Webb Tract in its entirety. The attention of the community is now riveted on your decision. The County Executive has too eagerly traded away the quality of life of its citizens for easily promised, yet uncertain, economic development. Well, times are bad, and the Smart Growth Initiative is not looking very smart and is even described as "lacking elements of perfection" by the Planning Board chairman. Grandiose visions and political legacies must be set aside. You must reject this "buy now, pay later" credit-card thinking which has destroyed our economy. I urge you not to be an enabler for this imperfect project and not to approve the funding request for the purchase of the Webb Tract. In the business climate we find ourselves in, companies are pleased when they find ways to drop pennies to the bottom line. Yet we find ourselves in a county where the County Executive's vision would drop hundreds of millions of dollars to the deficit line for a Science City seen by one Planning Commissioner as a "science blob." The Webb Tract has been divided into two acquisitions -- a Phase I purchase no later than September 30 and a Phase II, subject to approval of the relocation of the PSTA. I urge you to postpone the Phase I purchase option until the design and planning of the Multi-Agency Service Park are further along so that there is an in-depth and conclusive basis for decisionmaking. This should begin with an objective site selection study for each facility envisioned. The tilt towards Rapid Bus away from Light Rail for the CCT reduces the basis and impetus for relocating the PSTA to the Webb Tract. So I urge you to set aside any consideration of the Phase II purchase involving the PSTA until the macro issues weighing on the Gaithersburg West decision are fully unraveled and sorted out. We are depending on you to put an end to this shell game. Relieve both the political pressure you may be feeling and the anxiety Village residents are feeling. Reject the funding request for the Webb Tract purchase, both Phase I and Phase II. Thank you.

COUNCIL PRESIDENT ANDREWS:

Thank you, Mr. O'Neill. And our final speaker on this panel will be Steve Robins.

STEVE ROBINS:

Good after -- good afternoon, President Andrews and members of the Council. My name is Steven Robins, and I'm with the law firm of Lerch, Early & Brewer. I am here today speaking as an individual to comment on the County Executive's request for supplemental appropriation and amendments to the FY09-14 CIP, the PSTA and Multi-Agency Service Park PDF number 479909. As all of you probably know, I have a long and rather extensive history with Montgomery County public safety and have testified at virtually every hearing related to the County Executive's Smart Growth Initiative -- mostly about the



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1 Public Safety Memorial. I am here, however, today to support the County Executive's
2 efforts to purchase the Webb Tract in order to help achieve the Smart Growth Initiative.
3 There are many good ideas associated with this proposal that will benefit the County and
4 its citizenry. Purchasing the Webb Tract will allow the County, as you've heard, to relocate
5 the Public Service Training Academy, which has its own issues, the Montgomery County
6 Public Schools' food production and distribution facility, and maintenance facilities for
7 MCCPS and M-NCPPC's Parks Department. Relocation of the MCPS food facility and
8 MCCPS and Parks department maintenance facility will assist in the implementation of the
9 Shady Grove Sector Plan, freeing up valuable space for more appropriate uses near a
10 Metro. Relocation of the PSTA will help achieve the Science City vision of the
11 Gaithersburg West plan that you will soon see, particularly as it relates to a major housing
12 resource for workers in the area. These relocations will advance important housing,
13 transit-oriented development, transit, and economic development programs in the County.
14 The appropriation certainly is an important piece of the entire project. I too was selected to
15 served on the County Executive's task force on the Smart Growth Initiative. I am very
16 supportive of this effort and think that it will take the County in the right direction,
17 particularly in the face of increasingly competitive regional markets. I endorse Mr.
18 Fosselman's comments, and I appreciate the comments that he has delivered to you as
19 well. Thank you.

20
21 COUNCIL PRESIDENT ANDREWS:

22 Thank you, Mr. Robins. There are no questions for this panel, so thank you for your
23 testimony. We have one more panel on this public hearing, and then that will conclude our
24 speakers on the public hearing, though we have several other public hearings for action.
25 Our final group will be Robert Anderson, speaking as an individual, Chuck Ellison,
26 representing Miller and Smith, and Roy Bevington, speaking as an individual. And again,
27 each speaker will have three minutes. Yellow light goes on with about 30 seconds to go.
28 Please introduce yourself at the beginning, and if you have written testimony, please give
29 it to the clerk to my left. And Mr. Anderson is first.

30
31 ROBERT ANDERSON:

32 There it is. Thank you. The -- listening to the previous speakers set a higher standard, and
33 the comments that Councilman Knapp made, you made, Councilman Elrich made are
34 truly appreciated by this individual, anyway. Regarding the Smart Growth Initiative, I am
35 here in support of those who oppose the inappropriate placement of the Public Service
36 Training Academy on the Webb Tract. I have walked the tract numerous times and
37 observed its close proximity to adjacent residential neighborhoods. Additionally, the effect
38 the administration's PSTA plan will have on our residential streets from increased vehicle
39 traffic, the negative environmental effects, including increased noise levels, and the
40 probable negative effect on our property -- on the property values of our homes have
41 brought me to this conclusion. I also align myself with those that believe the County

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1 government would be an excellent neighbor if more compatible facilities were placed on
2 the subject property. I understand the Mid-County Citizens Alliance, whose chairman,
3 Terry O'Grady, spoke early, has furnished the Council with a constructive list of questions
4 and issues that they request be satisfactorily answered prior to any final decision by the
5 Council. This list has also been endorsed by the Webb Tract Committee, whose chairman,
6 Bob Hydorn, you heard from. Having worked for over a year with the MCCA and for a time
7 with the WTC and having reviewed the list several times, I strongly urge you to support
8 their requests on this list. Lastly, I wish to thank the members of the Council for their
9 careful evaluation regarding the appropriateness of the current administration's planned
10 use for the Webb Tract. Further, I wish to express my appreciation to the Council for your
11 continued consideration in assuring that the Smart
12 Growth Initiative does not come at the sacrifice of our residential communities and the
13 quiet enjoyment of our homes. Thank you very much. Oh --

14
15 COUNCIL PRESIDENT ANDREWS:

16 Thank you, Mr. Anderson.

17
18 ROBERT ANDERSON:

19 I'm sorry. I did forget one thing. In the package I left, there's a chart. It's residential. It
20 shows residential information. It shows the Airpark. It shows where the Webb Tract is
21 located, the armory. You might find it useful to peruse when looking at some of the major
22 decisions you have to make down the road. Thank you.

23
24 COUNCIL PRESIDENT ANDREWS:

25 OK. Thank you. Our next speaker is Chuck Ellison.

26
27 CHUCK ELLISON:

28 Thank you, President Andrews and members of the Council. My name is Chuck Ellison,
29 with Miller and Smith. We are owners of the property we call Centerpark. Everybody else
30 calls it the Webb Tract. Obviously, we are in support of the supplemental appropriations,
31 since we have been discussing and negotiating the sale with the County Executive's team
32 for almost two years now, and I will tell you we're excited about looking forward to a
33 decision, one way or the other, sometime in the not-too-distant future. I did want to explain
34 and perhaps elaborate on two items of Mr. Dise's testimony because they may be
35 important in your decisionmaking. The first is, when Mr. Dise mentioned there is an
36 approved preliminary plan, we like to think of it as a little bit further. When we began our
37 negotiations with the County, we were actually in the process of developing the property,
38 and if for some reason the Council did not approve this request, we would continue with
39 the development of that property. There is an improved preliminary plan that supports
40 over 1.2 million square feet of I-4 uses. Over the last approximately 24 months, we've
41 spent almost \$6 million in the actual development of the property -- moving dirt, designing



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1 plans, putting in storm drainage, things of that type. And then despite the tough economy
2 that we're in, we actually do have people who are interested in buying property and
3 creating industrial facilities along Centerpark. So, you know, the property is going to be
4 utilized in some fashion. I think that's important because if you do a evaluation of most of
5 the metrics used to compare development projects -- and I'll be the first to admit that the
6 concerns expressed by the community are very valid ones, and there are some aspects of
7 a PSTA that are very specific and need to be looked at very individually -- but if you look
8 at the broad metrics such as traffic, building coverage, buffers, green space, things of that
9 type, I think I can state, because I'm very familiar with it, that the Executive's proposal will
10 be much less intense than what would end up there as a business park under the I-4
11 zone. I'm the one that kind of knows who will be -- who would be living there if we
12 redevelop the property, and that's an important feature to consider. I would also be very
13 hopeful that over the coming months, as the Executive's team works with the community,
14 they could address a lot of those concerns, if not all of them, and go forward. With that,
15 again we would express our support for supplemental appropriation and the Smart Growth
16 Initiative at large. Thank you.

17
18 COUNCIL PRESIDENT ANDREWS:

19 Thank you. And our final speaker on this public hearing is Roy Bevington.

20
21 ROY BEVINGTON:

22 Thank you, Mr. President, and members of the County Council. My name is Roy
23 Bevington. I live in the East Village area of Montgomery Village, and I'm here as a
24 member of the Mid-County Citizens Alliance and also serve on the Montgomery Village
25 Foundation Webb Tract Committee. The County's Smart Growth Initiative plans currently
26 call for the relocation of the Public Safety Training Academy, currently located on Great
27 Seneca Highway, to the Webb Tract. And this facility includes a lot of -- a lot of other
28 facilities within it -- burn buildings, academic buildings, skid and skill driving pads, and
29 speed track for police training. We really question the logic of relocating these facilities to
30 the Webb Tract since the property is in close proximity, on three sides, to existing
31 residential areas. We also really question the logic of putting a burn building within the
32 middle of a residential area. The -- as envisioned, the driver training speed track will come
33 within 370 feet of residential areas in East Village and will be directly across the street
34 from Snouffer School Road. The current PSTA site, we feel, should be -- should be
35 upgraded and modernized. It is not located in the midst of a residential area, it has a much
36 better road network for users to access, and would it save the County a significant amount
37 of money. Money saved to upgrade, rather than relocating, could be used for other, more
38 pressing County fiscal issues. Of the other three facilities proposed for relocation to the
39 Webb Tract -- the school food warehouse, the school maintenance facility, and the Parks
40 and Planning maintenance depot, the Parks Department facility appears to be a rush to
41 judgment. This facility houses vehicle storage space for approximately 220 vehicles, a fuel



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1 depot, offices, and maintenance shops, and those maintenance shops service everything
2 from lawn mowers to heavy-duty dump trucks. Again, not a facility that probably should be
3 located in the midst of a residential area. Three other sites were evaluated by the
4 Planning Board but were rejected for locating the Park Department facility. One site -- we
5 would ask that a more proper and robust vetting process be done when looking at another
6 facility -- another location for his facility. And one site that comes to mind is the Black Hill
7 Regional Park. Land acquisition cost would be zero -- it's already owned by the County --
8 and the road network offers better access than the roads around the Webb Tract. And I'm
9 sure there are also other County-owned lands that might serve to be a location for that
10 particular facility. Residents living around the Webb Tract are concerned about the effects
11 of development on our communities, we're concerned about our quality of life and our
12 property values, and we thank all of you for your -- for looking into these issues and for
13 hearing our concerns. Thank you.

14
15 COUNCIL PRESIDENT ANDREWS:

16 Thank you, Mr. Bevington. And there are a couple of questions or comments for the panel.
17 First, Councilmember Elrich.

18
19 COUNCILMEMBER ELRICH:

20 We're hearing again today about the list of things that are concerns to residents in
21 Montgomery Village and the sense that the questions haven't been answered, and I think
22 at one of our previous meetings, George, you raised the issue about, we have this list,
23 and what are we going to do with it? And I think that -- I think we need some kind of
24 definitive moment where the Executive staff sits down with the committee, and we have
25 this list, and we go point by point, and we say, is this question answered or isn't this
26 question answered? So that's the first thing I think we have to do. We can't have this
27 discussion because Executive staff thinks we've answered everything. The community
28 says they haven't answered anything -- or haven't answered everything. I don't know;
29 depends who you talk to. And we're left to try to figure out what's been answered and
30 what's not, so I think a public meeting with everything out on the table is the only way
31 we're going to get to the bottom of that. So I think that's important. The other thing -- I --
32 this burn building is -- is an issue, and what is state of the art? And I asked Chief Bowers,
33 and he said it's the Howard County propane facility. And so have you guys in the
34 community been up to the Howard County propane facility? If that's what we're going to
35 build, then they need to go see it in operation and get a sense whether you can see it,
36 smell it, and hear it from a reasonable distance. Then we can all feel like either this can go
37 buried deep in the facility, or it can't be buried deep in the facility, but that's something that
38 needs to be answered. Same thing with the noise from the track. Residents have asserted
39 you can hear the noise at a certain distance. People are saying you can't hear the noise.
40 Seems to me, you go up to where the current track, you set a sound meter, you know, 300
41 feet away or whatever it is, and you just decide whether or not the noise is heard or the

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1 noises aren't heard. But these are answerable questions, and these are seeable things,
2 and we've got to get comfortable that you've shown people what you can show them, and
3 they can hear or not hear whatever there is involved in this, so we can go ahead and
4 make a decision. I mean, my friends in the village know that I'm inclined to want to support
5 this. I do think that this makes financial sense. I think that, you know, building new
6 facilities on the existing land and not getting -- is maybe more expensive than being able
7 to sell very valuable land and buy somewhat less valuable land, because you're acquiring
8 more less-valuable acreage and you can put more things on it. So I can see where this
9 could make sense economically, but it's got to work for the community, and I think that's
10 the question that we ultimately have to decide. We cannot make one community worse to
11 realize some vision of Science City, which won't be built out for 20 or 30 years, and these
12 residents may be asked to live with this stuff in two years. So, for my, you know, for my
13 clarification, to get me where the Executive wants me to be, we need to get some finality
14 to these questions.

15
16 COUNCIL PRESIDENT ANDREWS:

17 Thank you, Councilmember Elrich. We have a joint Public Safety and Transportation,
18 Infrastructure, Energy and Environment Committee meeting scheduled for September 17
19 at 9:30 in the morning, and I'll ask our staff to assemble the questions that we have heard
20 and collect the answers that we've received and see if there are gaps there that we can
21 then fill in at the meeting. Councilmember Knapp.

22
23 COUNCILMEMBER KNAPP:

24 Thank you, Mr. President. One piece, I think, just to keep in mind, and I apologize to my
25 colleagues who have heard this before, and some of you in the audience has -- have, as
26 well, but I think it's important for us to keep this clear. I think the community is asking
27 legitimate questions and trying to get some assurances as to what happens on a parcel of
28 land immediately adjacent to where they live. I think that's fair. I think, in an effort to try
29 and get something done, the Executive branch is working to try and accommodate as
30 many as those issues as appear practicable. My concern is that at the end of having done
31 that exercise, if this is the pathway the Council ultimately chooses to go down, that we've
32 created a situation that doesn't allow our public safety officials to actually do the type of
33 training that's necessary for them to be successful because of all the various concessions
34 we've made to make sure that we don't interrupt what's going on in the neighborhood. If
35 we can't do everything we need to do at a training facility, then I guess my argument
36 would be that this isn't the right place to have a training facility. But I think that's an
37 important point for us to keep in mind, because at the end of the day, we need to have a
38 state-of-the-art training facility, wherever it is, that allows us to have the best-trained fire
39 and rescue personnel and police officers that we can. And so we just need to be careful,
40 as we proceed down this road, to do -- whatever decisions we make allow us to achieve
41 that outcome. It's not just about the land and about what goes there. It's about how we

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1 actually get good fire and rescue folks, and good police officers, too, so it's just something
2 we need to keep in mind as we proceed. And to that point, I'd like to thank our public
3 safety officials who have taken a lot of time to be with us today, and there's a lot of stuff
4 going on out there in the County, and so I thank you for taking the time to be here with us.

5
6 COUNCIL PRESIDENT ANDREWS:

7 Thank you, Councilmember Knapp. I think that's an excellent point, as well, that it has to
8 work for the purpose of the facility in order to make sense to move. So while we need to
9 get answers to all the questions, it -- there's no guarantee that everyone will like all the
10 answers to the questions. But we do want to have answers that we understand before we
11 make a decision.

12
13 ROBERT ANDERSON:

14 Mr. President, may I just make one brief comment on what was just said?

15
16 COUNCIL PRESIDENT ANDREWS:

17 One brief comment.

18
19 ROBERT ANDERSON:

20 That is one of the things that bothers us, as well. We have been given a lot of promises. I
21 don't think any one person remembers all the promises, frankly, and -- but -- unless
22 they're put in some sort of contract or covenant form, I don't -- I myself cannot see how
23 they will ever be adhered to past the current administration. Thank you very much.

24
25 COUNCIL PRESIDENT ANDREWS:

26 OK. Thank you, and thanks to the panel. Thanks to everybody who came out to testify at
27 this public hearing. That concludes the public hearing, and as I said, the Public Safety and
28 T&E committees will have a joint worksession that is currently scheduled for September
29 17 at 9:30. And have a good few weeks in between. We look forward to hearing more
30 from you as we continue to work on this issue. We're now going to move on to the
31 remainder of the public hearings, which do not have any speakers, so I expect we'll move
32 through these pretty quickly. The next public hearing is on a supplemental appropriation to
33 the County government's FY10 Operating Budget for Montgomery County Fire and
34 Rescue Service in the amount \$1,338,845 for FY09 Senator Amoss Fire, Rescue, and
35 Ambulance Fund (State 508) Grant. Action is scheduled immediately following this
36 hearing. There are no speakers, and --

37
38 COUNCIL VICE PRESIDENT BERLINER:

39 So moved.

40
41 COUNCIL PRESIDENT ANDREWS:

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1 It is moved by Council Vice President Berliner. And the Public Safety Committee
2 recommendation actually was that we accept this grant. So we have a Public Safety
3 recommendation before the body in support of this, which we just need to vote on. So this
4 requires five votes because it is a grant.

5
6 COUNCILMEMBER LEVENTHAL
7 Mr. President.

8
9 COUNCIL PRESIDENT ANDREWS:
10 Councilmember Leventhal.

11
12 COUNCILMEMBER LEVENTHAL:
13 I wonder if we could -- the public hearing information did not contain the word "action." I'm
14 looking for the agenda. I think some of our colleagues may not really be clear that there
15 was going to be a vote. I realize it's late in the afternoon, but if we just take two minutes
16 and maybe ping the buzzer to alert -- Ms. Floreen is here.

17
18 COUNCIL PRESIDENT ANDREWS:
19 Sure. OK.

20
21 COUNCILMEMBER LEVENTHAL:
22 It's possible that colleagues are in the building and did not think there were votes.

23
24 COUNCIL PRESIDENT ANDREWS:
25 Yes, that could be, so -- good point, and let's go ahead and ring the bell. And we'll wait a
26 minute or two to see if folks can join us quickly. [PAUSE]

27
28 COUNCILMEMBER LEVENTHAL:
29 Just as a courtesy, Mr. President, because I think the word "action" was left out here.
30 Maybe if staff could just make a brief phone call to Councilmember Ervin and
31 Trachtenberg and ascertain if they want to vote.

32
33 COUNCIL PRESIDENT ANDREWS:
34 OK. All right. I have it on my agenda, but perhaps it wasn't on all of them.

35
36 COUNCILMEMBER LEVENTHAL:
37 Well, it's not on the public hearing speakers list, which is the last thing I looked at.

38
39 COUNCIL PRESIDENT ANDREWS:
40 I see. OK.

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1 COUNCILMEMBER FLOREEN:

2 It's on the agenda.

4 COUNCILMEMBER LEVENTHAL

5 I understand.

7 COUNCIL PRESIDENT ANDREWS:

8 OK. But it's not everywhere.

10 COUNCILMEMBER LEVENTHAL:

11 I understand. I don't want to delay this unduly, but --

13 COUNCIL PRESIDENT ANDREWS:

14 No, I understand.

16 COUNCILMEMBER LEVENTHAL:

17 I know if I were in the building and I didn't think there were votes, I'd appreciate if
18 someone would at least buzz me.

20 COUNCIL PRESIDENT ANDREWS:

21 Good point. OK. So we'll wait a couple minutes, and in the meantime, I'll just describe that
22 this is a grant of \$1,330,000 which would be used to fund acquisition or rehabilitation of
23 apparatus and capital equipment, fire and rescue equipment and supplies, and the
24 renovation of facilities used to house apparatus. The fire chief has reviewed the
25 recommendations, and the Montgomery County Volunteer Fire and Rescue Association,
26 which conducted a review of the local fire and rescue departments, of their requests under
27 this fund. And the MCVFRA already its recommendations to the fire chief, which, as I said,
28 he reviewed. He approved them with certain conditions and clarifications to help promote
29 safety and ensure the compatibility of new and existing equipment. Most of the conditions
30 require that the Montgomery County Fire and Rescue Service approve the specifications
31 for vehicles and equipment prior to purchase. So that is a brief summary of the grant. This
32 is an annual grant that the County receives through the state, and it's named after a
33 former state senator who championed these initiatives. Let's see. All right. We have three
34 more. I'll just say -- I'll just talk briefly about the three other items that are going to follow.
35 There will be the action on three more items after we have the public hearing. The next
36 one is a special appropriation to the County government's FY10 Operating and Capital
37 Budgets for the FY09-14 Capital Improvements Program, Department of Transportation.
38 There will be another public hearing and action after that on a special appropriation to the
39 County government's FY10 Operating Budget for the Department of Health and Human
40 Services for American Recovery and Reinvestment Act funds that will go for a Community
41 Services Block Grant, senior nutrition, immunization activities, and Part C of IDEA, the

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1 Montgomery County Infants and Toddlers Program. And then our final public hearing,
2 which is item 18, and is a special appropriation to the County government's FY10
3 Operating Budget for Police, Sheriff, State's Attorney, Corrections, and Department of
4 Health and Human Services of a million dollars -- just over a million dollars -- under the
5 Edward Byrne Memorial Justice Assistance Grant. It's a federal grant. And most of those
6 funds will be to help launch a -- the video camera installation in patrol cars for the police
7 department, and that has been a long time coming. That will be about \$620,000 of that
8 million-dollar grant, and that will purchase about 100 cameras to install in patrol cars, and
9 the County will supplement that with 100,000 of its own money and is looking actively for
10 other grant sources of funding for helping to purchase other video camera for installing
11 them in the remainder of the patrol car fleet, which totals about 800. So it's good to see
12 that going. That's an important initiative that will improve public safety for not only the
13 general public, but for police officers, as well. All right. I think --

14
15 COUNCILMEMBER FLOREEN:

16 Move to move approval.

17
18 COUNCIL PRESIDENT ANDREWS:

19 Yes. [PAUSE]

20
21 COUNCILMEMBER FLOREEN:

22 That would be items 15, 16, and 17.

23
24 COUNCIL PRESIDENT ANDREWS:

25 All right. So we have -- we have item 14, which we just had the public hearing -- Item 15.
26 We just had the public hearing on, and the Public Safety Committee is recommending
27 approval. All those in favor of the Public Safety Committee recommendation, please raise
28 your hand. That's Councilmember Elrich, Councilmember Floreen, myself, Council Vice
29 President Berliner, Councilmember Knapp, and Councilmember Leventhal. It is approved,
30 6-0. All right. We're now going to have a public hearing on item 16, which is a
31 supplemental appropriation to the County government's FY10 Operating Budget for
32 Montgomery County Fire and Rescue Service in the amount of -- oops, we did that one.
33 Item 16 is a public hearing on several special appropriations to the County government's
34 FY10 Operating and Capital Budgets and amendments to the FY09-14 Capital
35 Improvements Program, Department of Transportation, Division of Transit Services -
36 \$350,000 for the American Recovery and Reinvestment Act Grant, \$750,000 for the
37 BRAC bicycle and pedestrian facilities, and \$2,775,000 for the ARRA traffic improvements
38 and \$5,715,000 for ARRA highway improvements. That's A-R-R-A. Action is scheduled
39 immediately following this hearing. There are no speakers for this hearing, so the hearing
40 is closed. There is a T&E Committee recommendation, I believe, on this, and I'll turn to
41 the chair --

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1
2 COUNCILMEMBER FLOREEN:

3 Move to approve it. We support this.
4

5 COUNCIL PRESIDENT ANDREWS:

6 Councilmember Floreen say the T&E Committee recommends approval, and all those in
7 favor of this supplemental -- of this special appropriation, as just described, please raise
8 your hand. Councilmember Elrich, Councilmember Trachtenberg, Councilmember
9 Floreen, myself, Council Vice President Berliner, Councilmember Knapp, and
10 Councilmember Leventhal. And that is approved, 7-0. Our next public hearing is on
11 several special appropriations to the County government's FY10 Operating Budget for the
12 Department of Health and Human Services for the American Recovery and Reinvestment
13 Act -- \$763,334 for a Community Services Block Grant, \$206,978 for senior nutrition,
14 \$245,000 for immunization activities, and \$587,101 for Part C IDEA, Montgomery County
15 Infants and Toddlers Program. Action is scheduled immediately following this hearing, and
16 there are no speakers for this hearing, so the hearing is closed. The -- I don't see a
17 recommendation on this one. Did this go straight to the Council? I need a motion on this.
18 Who would like --
19

20 COUNCILMEMBER FLOREEN:

21 Move approval.
22

23 COUNCILMEMBER KNAPP:

24 Second.
25

26 COUNCIL PRESIDENT ANDREWS:

27 Moved by Councilmember Floreen. Seconded by Councilmember Knapp. All those in
28 favor of this special appropriation, please raise your hand. Councilmember Elrich,
29 Councilmember Trachtenberg, Councilmember Floreen, myself, Council Vice President
30 Berliner, Councilmember Knapp, and Councilmember Leventhal. It is approved, 7-0.
31 And our final public hearing for the afternoon is on a special appropriation to the County
32 government's FY10 Operating Budget for Police, Sheriff, State's Attorney, Corrections,
33 and the Department of Health and Human Services in the amount of \$1,029,500 for a
34 federal FY09 Recovery Act Edward Byrne Memorial Justice Assistance Grant. Action is
35 scheduled immediately following this hearing. This is the grant I referred to earlier that
36 includes \$628,000 for the installation of patrol cameras in -- video cameras in patrol cars.
37 The Public Safety Committee recommends approval. The source is a federal grant. All
38 those in favor of this special appropriation, please raise your hand.
39

40 COUNCILMEMBER FLOREEN:

41 I don't even remember this.

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1
2 COUNCIL PRESIDENT ANDREWS:

3 No. We -- Public Safety Committee did meet on this.

4
5 COUNCILMEMBER FLOREEN:

6 They did?

7
8 COUNCIL PRESIDENT ANDREWS:

9 Yeah, we did. We took this up last Thursday, so it just didn't make it on to the agenda, but
10 we did recommend it. So all those in favor, please raise your hand. Councilmember Elrich,
11 Councilmember Trachtenberg, Councilmember Floreen, myself, Council Vice President
12 Berliner, Councilmember Knapp, and Councilmember Leventhal. That is approved, 7-0.
13 And that concludes the action on public hearings, and we now move into our final item for
14 the afternoon, which is the worksession on the Germantown Sector Plan, which I expect
15 we will finish up today, except for the final resolution or votes, which we'll come back and
16 take on September -- in September, to give staff time to put the resolution together. I see -
17 - Councilmember Trachtenberg, did you want to say something?

18
19 COUNCILMEMBER TRACHTENBERG:

20 I actually wanted to make a request, which is that I be recorded in the affirmative for all of
21 the votes that were taken on the grants and funding actions.

22
23 COUNCIL PRESIDENT ANDREWS:

24 OK.

25
26 COUNCILMEMBER TRACHTENBERG:

27 I believe I missed three of them before I came down for the last three.

28
29 COUNCIL PRESIDENT ANDREWS:

30 I'm not sure which one -- I'd have to check, but we will -- we'll have the record note that
31 you support the items that you referred to.

32
33 COUNCILMEMBER TRACHTENBERG:

34 OK. Thank you.

35
36 COUNCIL PRESIDENT ANDREWS:

37 OK. We'll check. OK. All right. We're now going to turn to the Germantown Sector Plan
38 and the worksession. I will turn to the chair of the PHED Committee, Councilmember
39 Knapp, to remind us of the issues that we were coming back to on the Sector Plan. There
40 were two or three major ones that we were coming back to.

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1 COUNCILMEMBER KNAPP:

2 There were.

4 COUNCIL PRESIDENT ANDREWS:

5 I think staging was one.

7 COUNCILMEMBER KNAPP:

8 We actually -- I believe we have three issues.

10 COUNCIL PRESIDENT ANDREWS:

11 OK.

13 COUNCILMEMBER KNAPP:

14 Thank you, Mr. President, and I thank my colleagues. I again apologize. At the end of the
15 last session, I had to be gone for the afternoon, and I know the Council continued on the
16 worksession and made great progress, and so I thank my colleagues for their diligence
17 and staff for taking us through the remainder of the plan at that point. We have three
18 issues remaining in Packet 19A -- I think it's three issues, at least on the plan, and then
19 we have a couple as it relates to transportation. The first is the floor area ratios and
20 height.

22 MARLENE MICHAELSON:

23 And on this issue...

25 COUNCILMEMBER KNAPP:

26 Ms. Michaelson.

28 MARLENE MICHAELSON:

29 What we had said to you was that on some of the properties there were some missing
30 heights, so the attachment on circle 2-7 is all the final numbers -- heights, floor area ratios
31 for all the properties. In the last version you saw, there were still a couple of missing
32 numbers, so I just wanted to make sure that you had this in hand.

34 COUNCIL PRESIDENT ANDREWS:

35 Where is that?

37 COUNCIL VICE PRESIDENT BERLINER:

38 This is an administrative issue. This is not a substantive issue?

40 COUNCILMEMBER KNAPP:



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1 Right. This was making sure all the -- where there should be a number, there in fact was a
2 number.

3
4 MARLENE MICHAELSON:

5 That's correct. And actually, we put it out there to make sure that you did not hear -- you
6 know, I think if it was a substantive issue, you would have heard from property owners,
7 and the fact that there is agreement, for the most part, with this says to me that where
8 there were missing numbers, there was some expectation it would look that way. I should
9 tell you that some property owners have come to me with minor technical clarifications,
10 which I am not bringing to you. They'll be part of the resolution.

11
12 COUNCILMEMBER KNAPP:

13 OK. So that -- we have that clarification. The second issue was the morning of our
14 previous consideration of this, Mr. Elrich came forward with language that addresses
15 environmental issues. If I understand it correctly, much of the language which was actually
16 brought back -- brought forward in the document from the addendum and actually made a
17 part of the plan itself, so it's not language that was new to the plan. It was given a higher
18 emphasis, I think, with our focus on environmental activities. And so I don't -- I haven't
19 heard from anyone that there are any questions with that, so I think we can go ahead with
20 it as a committee recommendation.

21
22 COUNCIL PRESIDENT ANDREWS:

23 I think so.

24
25 COUNCILMEMBER KNAPP:

26 I think it makes sense to do, to make sure we have that type of focus. I don't see anyone's
27 head going in any particular direction.

28
29 COUNCIL PRESIDENT ANDREWS:

30 Everyone seems OK with that.

31
32 COUNCILMEMBER KNAPP:

33 That's good. The third issue is on the Rolling Hills property. The committee
34 recommendation was to support RMX-1 zoning. The committee was 2-1 supporting a
35 density of 30 units to the acre. Mr. Elrich supported the plan-recommended 25 units to the
36 acre. From my perspective, this is a fairly straightforward issue. Part of what I think the
37 justification was for increasing the density was because of access to transit. Yes, it's
38 MARC train and there's a level of variability as it relates to MARC service because of the
39 CSX control of the tracks, but more importantly, looking at the community, you have a part
40 of the community that is bounded by Great Seneca Highway, here is a high school across
41 the street, there is industrial use at the end of the street, and you have railroad tracks



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1 behind the property. It's a logical place to try to increase residential development because
2 it's also accessible off each direction to shopping facilities and hopefully will spur on
3 activity , commercial activity, in the adjacent shopping center and also provides access to
4 transit, while at the same time providing walkability into the Town Center area itself. And
5 so from my perspective, this seemed to me a lot -- an awful lot of sense. Plus, it's a fairly
6 isolated parcel, so you have very little impact on any adjacent communities because there
7 are no adjacent communities.

8
9 COUNCIL PRESIDENT ANDREWS:

10 Thank you, Councilmember Knapp. Councilmember Elrich.

11
12 COUNCILMEMBER ELRICH:

13 When this came before the Planning Board, the staff recommendation was 18. After
14 further discussion with the applicant, the staff recommendation of the Planning Board
15 upped it to 20. And then the Planning Board, after some discussion, upped it to 25. We're
16 now talking about going to 30, which is like a 60% increase over what the Planning Staff
17 recommended, and one of their points is that because of the constraints on how much of
18 the property is going to be developed, it's going to be more like 40 units per acre, rather
19 than 30 units per acre. It's going to have a density unlike anything else. The problem with
20 MARC, the station is not -- as opposed to me -- is the --

21
22 COUNCILMEMBER KNAPP:

23 Are we getting comments on that, too?

24
25 COUNCILMEMBER ELRICH:

26 Is the -- is not the irregularity of the MARC service.

27
28 COUNCIL PRESIDENT ANDREWS:

29 A moment of self-revelation there. OK.

30
31 COUNCILMEMBER ELRICH:

32 It's only getting worse here. I got to figure out how to rearrange this conversation. The
33 problem with that facility is that it simply is not a major hauler of people. It's not designed
34 to be, and nowhere in the state's plan, probably in most of our lifetimes, is it going to be.
35 Planning -- planning something around a MARC station and saying, "This a mass transit
36 facility," is really, really inaccurate. It runs in one direction. It runs very infrequently in the
37 morning. It's terrible if you're planning a trip coming back in the evening. If you miss a
38 train, you're out there waiting another 40 minutes. There's no evidence that anywhere
39 where these stations are that they draw significantly high ridership, and that's, you know,
40 all the more puzzling because it does go to Union Station down in DC, where you would
41 think that if this were such a great facility, people would use it a lot heavier than they do,

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1 but they don't. We had no reason to do this other than, you know, the assertion that it's
2 next to MARC, and somehow, that's mass transit and we should increase the density. I
3 think that staff was probably right at 18. They were probably right at 20. I think the board is
4 probably overboard at 25, but I'm willing to stay at the 25 number. I don't think we should
5 increase this beyond the 25. It's -- it's probably more than should be put there. Most
6 people are going to drive out of this facility, and that is the reality of the situation. They're
7 not going to be transit users, and I would remind everybody that the problem in
8 Germantown when this whole process began was not how many more housing units you
9 could cram into Germantown, but could we get the jobs into Germantown that everybody
10 wanted. So getting some incremental increase in housing has nothing to do with the
11 objectives that anybody tried to achieve with this Germantown plan -- and God knows
12 we've put plenty of additional housing in at other places anyway. So squeezing this last
13 extra increment here just seems to be overkill, in my mind.

14
15 COUNCIL PRESIDENT ANDREWS:

16 OK. Thank you, Councilmember Elrich. Council Vice President Berliner.

17
18 COUNCIL VICE PRESIDENT BERLINER:

19 Dr. Hanson, having just sat through an interesting conversation about Clarksburg, where
20 your recommendations were overturned by Council, I will give you a softball here. Tell us
21 why it is that your recommendation ought to be honored in this moment.

22
23 ROYCE HANSON:

24 Well, you just ought to listen to the Planning Board. But the board felt that a density of 25
25 was plenty for this site, given its location, given that some redevelopment -- I think we
26 were persuaded that some redevelopment of the existing apartment complex made some
27 sense, but to increase that density beyond 25, we did not think was a good idea from both
28 the -- its location, the height that would be required for redevelopment at greater densities,
29 and for many of the reasons that Mr. Elrich has just mentioned. The current transit
30 ridership from that complex is extraordinarily small. It's around, what, one percent or
31 something like that? And we don't think that the -- the increase in density is likely to
32 precipitate a huge bump in transit ridership in the area. And to achieve many of the other
33 things that we're trying to achieve in Germantown, we need to increase the modal split.

34
35 COUNCIL VICE PRESIDENT BERLINER:

36 Let me turn also then to our Council staff and see if you had a recommendation with
37 respect to this issue for us.

38
39 MARLENE MICHAELSON:

40 I supported the Planning Board recommendation on this one, for 25.

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1 COUNCIL VICE PRESIDENT BERLINER:

2 Thank you.

4 COUNCIL PRESIDENT ANDREWS:

5 OK. Well, let's see --

7 COUNCIL VICE PRESIDENT BERLINER:

8 Is there a motion? Marc, are you moving -- are you making a motion with respect to this?

10 COUNCILMEMBER ELRICH:

11 I would move that we take this back to 25 from 30, which is the Planning Board
12 recommendation.

14 COUNCIL VICE PRESIDENT BERLINER:

15 I'll second that.

17 COUNCIL PRESIDENT ANDREWS:

18 OK. All right. So it's moved and seconded. Is there any discussion? Councilmember
19 Leventhal.

21 COUNCILMEMBER LEVENTHAL:

22 Let me just get clarification. This is pretty distant from the Corridor Cities Transitway, yes?
23 This is the MARC station which is down Germantown Road some distance.

25 ROYCE HANSON:

26 That's correct.

28 MARLENE MICHAELSON:

29 It's the western border of the planning -- of the Sector Plan area.

31 COUNCILMEMBER ELRICH:

32 Yeah. All right. I'm going to surprise people and vote with Mr. Elrich on this.

34 COUNCILMEMBER ELRICH:

35 Twice today, George.

37 COUNCILMEMBER LEVENTHAL:

38 Well, I mean, both involving Germantown. I mean, I -- you know, we're making a -- we're
39 making a major push for smart growth at transit hubs. It's a real stretch to call
40 Germantown a transit hub. I can see that the Corridor Cities Transitway may create a
41 transit hub, but, you know, these are both votes involving significantly increased density in

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1 areas that, you know, can only be described as sprawl areas. These are not -- this is not
2 transit-oriented development, and it's hard to -- it's a stretch for me to think of it as smart
3 growth. I do think the point is valid -- that what I'm hearing mostly from the Germantown
4 business community is that they want more jobs in Germantown to minimize the length of
5 trips. So -- so I appreciate the work that has been done, but the PHED Committee, but I've
6 listened to this discussion, and I -- we're still increasing the density at this location.

7
8 COUNCIL PRESIDENT ANDREWS:

9 OK. All right. Would anybody like to comment? No? Councilmember Knapp.

10
11 COUNCILMEMBER KNAPP:

12 Well, I appreciate my colleague's perspective and understanding of the Councilmember
13 from District 2, who happens to live in the community, but that notwithstanding, I think
14 that, for a lot of reasons -- this may be on the western part of the Sector Plan. It is still in
15 the center of Germantown, and so to say it's on the western part of the Sector Plan kind of
16 would give one the notion that it's really far out of town. You've got another four miles
17 before you actually get to the borders of Germantown from this point. The reason that you
18 don't see any transit out of this community is because that's a low- to moderate-income
19 unit right now. Access to MARC station from there is virtually nonexistent. There's a little
20 tiny path. And so to say that it's something that has been highly marketed I think is
21 completely -- would be inaccurate and it's not something -- it's something that has been
22 happenstance as developed over time. The ridership from this station is significant and
23 continues to expand on a daily basis. To the extent that there is a mix of units in here that
24 will allow potentially more folks from a variety of incomes to be able to access transit, I
25 think, you know, people will take advantage of it in a way that they do not currently. It's
26 walkability to Town Center I think is very significant. If we actually see the commercial
27 goals that we're hoping to see in the adjacent parcels, I think it will have a significant
28 outcome, as well -- even on the parcels that are immediately across the street. So I think
29 it's important to take into account a variety of factors, plus you have an isolated site that
30 you can get the types of densities and increase the supply of housing which, near as I can
31 tell -- I've been on this Council for seven years. Increasing housing is pretty much
32 something we're trying to do anyplace we can do it. If it's a place that we can do that can
33 support it, can sustain it, and at the same time, can do without having significant impact
34 on compatibility with adjacent neighborhoods. There aren't many of those opportunities
35 out there, and this is one of them, so I think we should take advantage of it.

36
37 COUNCIL PRESIDENT ANDREWS:

38 OK. Thank you, Councilmember Knapp. Anybody? I think that's it. Oh, Councilmember
39 Floreen. Sorry.

40
41 COUNCILMEMBER FLOREEN:

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1 Thank you, Mr. President. I just wanted to comment. It's an interesting conversation, and
2 what I think it would be helpful for us to resolve, at least conceptually, is what do we mean
3 about development around transit? Corridor Cities Transitway is part of that conversation -
4 - those stations. Likewise, there are MARC stations in the other plans that we're going to
5 be looking at, and I think it's a worthy conversation of where we want to go with making
6 best use of the existing infrastructure and what is the incentive to pressure the CSX
7 people, the MARC people, for additional computer support -- commuter support. That is
8 something that has been advanced by a number of our transit groups -- usage of what we
9 have, and if we don't have the people there to use it, there's going to be very little
10 incentive to move that forward. So I just want to raise that issue as -- as we go forward. I
11 think it's an important one for the -- for the Council to think about and certainly for our
12 Planning people in terms of understanding where you -- what you really mean when
13 you're talking about transit serviceability and making sure that we make the best use,
14 particularly of the transit that's in place today. Obviously, not I -- we've got a couple of
15 very agricultural locations for MARC stations, but this is a Town Center kind of
16 environment, and it's an interesting conversation. I think we need to be clear about where
17 we're going on this.

18
19 COUNCIL PRESIDENT ANDREWS:

20 Thanks, Councilmember Floreen. And I think Councilmember Ervin -- we have a vote
21 that's -- an amendment that's been proposed, OK, on density levels.

22
23 COUNCILMEMBER ERVIN:

24 We do have a television upstairs. I can watch it.

25
26 COUNCIL PRESIDENT ANDREWS:

27 Very good. OK.

28
29 COUNCILMEMBER KNAPP:

30 We have technology?

31
32 COUNCIL PRESIDENT ANDREWS:

33 All right. Very good. OK. So the motion is to limit the density to 25 units an acre, as
34 recommended by the Planning Board, rather than 30. So that's the motion before the
35 Council right now. All of those in favor of the motion, please raise your hand.
36 Councilmember Elrich, myself, Council Vice President Berliner, and Councilmember
37 Leventhal. Opposed? Councilmember Floreen, Councilmember Knapp, and
38 Councilmember Ervin. So that's 4-3 to go with the 25. OK. We have a couple more issues,
39 I believe, Mr. Chair?

40
41 COUNCILMEMBER KNAPP:

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1 Our final issue for the actual -- for Ms. Michaelson's part of the plan is the staging, and
2 actually this runs into --

3
4 MARLENE MICHAELSON:

5 It continues on to the addendum.

6
7 COUNCILMEMBER KNAPP:

8 Right, right, which kind of is our segue into the transportation piece. The committee's
9 recommendation was to delete the Sector Plan staging recommendations and use the
10 growth policy to stage development in Germantown, and if desirable, provide a preference
11 for Town Center. There was a long -- a lengthy conversation about staging as a concept,
12 and then some elements as related to transportation, when we took this up two weeks
13 ago. And I thought it was a good discussion. As a result of that, the -- and I'll let staff give
14 their perspective -- Planning Board came back with some modifications to their staging
15 element. My perspective was that while I appreciate the effort, it still came across to me
16 as a kind of a similar focus as to what had been put in there before, which really didn't
17 necessarily get us to increasing the vibrancy in Town Center, which was really the focus
18 of the staging in the first place. I would -- would like to add some language that talks about
19 the restaurant elements and creates destination restaurants and entertainment uses
20 intended to draw patrons from the wider Germantown community areas outside of that
21 community into the Town Center, and then limit restaurants adjacent to that to those just
22 serving the immediate areas, and so I'll put some language to that effect. But I think that
23 would be the only thing, at this point, to add to staging, from my perspective, from the
24 committee's perspective, but I would like to turn to staff to have them respond to what we
25 received from the Planning Board and any other thoughts they would have on staging at
26 this point.

27
28 GLENN ORLIN:

29 Did you want the Planning Board staff to first present what their proposal was?

30
31 COUNCIL PRESIDENT ANDREWS:

32 Yeah. I think it would be useful to hear the proposal, the plan.

33
34 SUE EDWARDS:

35 Could we have the -- the pictures up?

36
37 ROYCE HANSON:

38 I've got a short PowerPoint, just a few slides that, I think, helps present the idea.

39
40 COUNCIL PRESIDENT ANDREWS:

41 OK. Are they going to be -- do we need the screens? [PAUSE]

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1
2 ROYCE HANSON:

3 While that's coming up, I'll just say our staff and the Department of Transportation worked
4 jointly on this, and the basic idea is that we're starting with 8 million square feet and some
5 housing on the ground. There is about 4 million that -- in addition that could proceed at
6 any point. This plan does not distinguish as to where it the development occurs in each
7 stage, but it would occur in essentially stages of 4 million each, and that -- the one thing
8 that has been done to try to make sure that the -- that the Town Center and the
9 Germantown campus for its academic facilities and any other project that is designated by
10 the County as of strategic importance can proceed at any stage. So that's -- that's the
11 basic elements of it, and Miss Edwards will go through the slides with up.
12

13 SUE EDWARDS:

14 OK. This does result from the work that we did with the Department of Transportation to
15 look very carefully at increments of development and what kind of supporting -- either
16 institutional or transportation infrastructure -- is needed for each of these increments of the
17 4 million square feet and roughly 3,000 housing units. Most importantly, we felt, was to set
18 up a mode share performance goal, starting with where we are today, at roughly 16%
19 non-auto driver mode share. To relocate the Park and Ride from the Town Center so that
20 it -- that would give the future Park and Ride a place to expand and also that the Town
21 Center station could be developed with more intensive uses supporting of transit. Some
22 engineering studies to look at five of the interchanges that have been proposed as
23 necessary. To develop the Parking Management Authority, and identify an Urban Service
24 District Mechanism. And also, to look at the feasibility of a MARC garage, which would
25 help to expand the parking potential there and also keep the encroachment of future
26 surface parking from substituting for other kinds of development around the MARC. The
27 second stage would be to increase the mode share by 3%. It would require that the CCT
28 be built to the Town Center, that Observation Drive go through the college -- the segment
29 that is currently not built -- and Observation Drive from the edge of Germantown into
30 Clarksburg would be under construction. Same with the Dorsey Mill bridge and road,
31 which is really the precursor for the CCT, as well as providing connectivity. That these
32 engineering studies for five interchanges would be completed and the physical effects
33 known, and that the first interchange that was deemed to be necessary on 355 would be
34 funded, and that the M-83 decision, whether to build or not build or any alternatives, would
35 be determined. So the third stage brings the mode share up to 22%. It would require that
36 the CCT be built into Clarksburg, that I-270 be improved to Germantown, and that the
37 second interchange on 355 would be constructed. In terms of the numerics of this, we've
38 looked at the existing facilities, both residential and commercial, and allowed for a small
39 increment to take place, as considered to baseline. But for the remaining increments, the
40 blue area shows what the assumed development -- increase in development would be.
41 The red area is what is new, so that with each of these stages, you would continue to gain

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1 4 million square feet of development and 3,000 housing units. And as we had mentioned,
2 it does assume that the Town Center, roughly 6 million square feet of commercial
3 development, would be able to proceed at any point, as would the Montgomery College
4 academic facility, as would any strategic project that was designated by the County
5 Council.

6
7 ROYCE HANSON:

8 And if you -- if you look at the amount of development that has been occurring in
9 Germantown historically, I think it's only about 200,000 square feet a year. The -- if you
10 double that, to get 4 million square feet, you're talking about a 10-year period, even if you
11 have almost an exponential increase at somewhere in this stage, you're going to have
12 situations where you do need these substantial lumps of infrastructure available so that
13 you can proceed. And the reason for putting this in the plan is basically to both tag these
14 as important elements that need to be added for the next stages of development to
15 proceed and to try to get them there in advance, rather than after the fact or under the
16 growth policy, where we just have to shut it down.

17
18 COUNCIL PRESIDENT ANDREWS:

19 Thank you for the summary presentation. Council Vice President Berliner has a question
20 or comment.

21
22 COUNCIL VICE PRESIDENT BERLINER:

23 I understand this is a joint recommendation. Is that correct?

24
25 EDGAR GONZALEZ:

26 That is correct. We work very well together.

27
28 COUNCIL VICE PRESIDENT BERLINER:

29 I appreciate that. Now, if you could have only brought on our Council staff with respect to
30 this. I understand that our Council staff continues to believe that this is a bad idea. I'd like
31 you to give voice to it again as to why this is a bad idea. Many of us do believe, generally
32 speaking, staging probably is a good thing. Why is it a bad thing here?

33
34 GLENN ORLIN:

35 Because we have staging already, and it's called the growth policy.

36
37 COUNCIL VICE PRESIDENT BERLINER:

38 Are you going to say that when we get to Gaithersburg and White Flint?

39
40 GLENN ORLIN:

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1 Yes, most likely. But we'll see when we get there. We'll see what the elements are of the
2 staging. If it's transportation staging --

3
4 COUNCIL VICE PRESIDENT BERLINER:
5 Marlene's not going to say it.

6
7 MARLENE MICHAELSON:
8 I'm not, so... You may have the Council staff disagree when you get to those other plans.

9
10 GLENN ORLIN:

11 Well, I'll reserve judgment till we get there, but in this plan, and most plans, we have
12 transportation staging in Master Plans -- in the growth policy. That's why we have it, is so
13 we don't have to do this in Master Plans. The growth policy measures adequacy of
14 facilities. If you look at the two compelling reasons the chairman mentions in his letter --
15 on circle 1 and circle 2 of the addendum, it lays it out there. The first one talks about the
16 need to provide facilities. You have to provide the facilities to be able to meet the growth
17 policy requirements as well, and the advantage of just having the growth policy, rather
18 than having the growth policy and on top of that a staging plan, is that the staging plan
19 says, these particular facilities have to happen. And I've been around for a long time.
20 Many of you have also around been around for a long time and watched projects rise and
21 fall and barely be able to move forward. An environmental issue comes up. A community
22 issue comes up. A funding issue comes up. If any of these projects, if any single one of
23 these projects, going into Stage 2 can't move forward for some reason, everything stops.
24 There's no -- the only way you can get around it is if you can go back and amend the
25 Sector Plan, and what's the point of that? The real point should be that there's enough
26 transportation facilities and programs -- regardless of what they are, as long as they're
27 Master Planned and consistent with the plan -- to be able to address development as it
28 comes on board. Nobody here has the knowledge, at this point in time, to know which
29 projects are going to run into trouble and which are not, so why do you make that
30 judgment now? Why not look every two years, and then you go through the CIP process --
31 you add projects to the CTP. You ask the state to get going on projects. It wouldn't be -- in
32 fact, it would not be a bad thing at all to list the same projects that the board and the DOT
33 is listing as -- maybe in the appendix or even in the plan -- as the kinds of facilities that
34 ought to be looked at first, as long as it's not a requirement of going to the next stage.
35 There's nothing wrong with tagging them as necessary projects, but not have them be the
36 condition to go forward to the next stage.

37
38 COUNCIL VICE PRESIDENT BERLINER:
39 Dr. Hanson, would you care for a 30-second rebuttal?

40
41 GLENN ORLIN:

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1 Could I ask -- the second part of it, sir. I'm sorry. I didn't quite finish. The second argument
2 or compelling reason that's mentioned has to do with allocation of capacity, if you will --
3 development capacity to the Town Center. And there, we totally agree with the board, but
4 there's a way of dealing with that in the growth policy itself, which is to go back to the way
5 it was done prior to 2003 for 15, 20 years, which is that, the development capacity that's
6 available in all of Germantown by policy can be focused on the Town Center, rather than
7 let it sort of smooch out all over of Germantown East or Germantown East and West. That
8 is something that would have to be fixed, if you will, in the growth policy, but that's, frankly,
9 a fix that ought to be done for all the policy areas that have a Metro station area in it or a
10 Town Center policy like Germantown. Because we don't have that ability in North
11 Bethesda right now, for example, to focus the development approvals that might be
12 available because of transportation capacity -- focus that in White Flint, Twinbrook, and in
13 Grosvenor. So, it's -- that's the kind of fix we would look for there. But I think we can
14 address this second point in the growth policy, and the first one essentially just duplicates
15 what the growth policy does by throwing up an unnecessary hurdle.

16
17 COUNCIL VICE PRESIDENT BERLINER:

18 Dr. Hanson, we have an Adequate Public Facilities ordinance that requires, before
19 development goes forward, there must be, quote, adequate public facilities, there must be
20 the roads. Why do we need to put this in the Master Plan when, good sir, we just -- again,
21 we're coming out of a Clarksburg Master Plan that is a debacle, all right? And we were
22 wedded to a Master Plan that now we are saying, "This doesn't work." Why wouldn't we
23 the flexibility that our Council staff is urging to give us in this context where we can look at
24 precisely these sets of issues every two years?

25
26 ROYCE HANSON:

27 Well, there are a couple of answers to that, I think. One is the every-two-year process
28 certainly gives you a great deal of flexibility -- not only to act, but not to act. Including
29 some critical infrastructure as staging elements in the plan really places a much higher
30 imperative on achieving the capacity that that infrastructure provides. Now, if you want to
31 provide a performance standard that would require the equivalent capacity, for some
32 facilities, I think that works. For some also, you've got some other things that are pretty
33 important. Developing the kind of density that you want, that I think you want -- you've
34 said you like the vision of the plan -- around the proposed transit stations sort of requires
35 that the transit stations be there. Getting -- for instance, just getting the Park and Ride
36 facility out of the Town Center is an important step. That wouldn't be taken care of in
37 growth policy. It's an important step in making it possible to redevelop that site, which is
38 an important site in the Town Center, and locating a parking facility elsewhere so that
39 there is an opportunity for Park and Ride users of the CCT. So those are -- those are
40 some of things that are important. Also, yeah, the growth policy could say, if transportation
41 capacity is not available, Montgomery College can't develop. Key to having Montgomery

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1 College fully developed past its academic capacity -- which we're saying leave alone;
2 basically, let it develop in any stage -- is getting Observation Drive done. Without
3 Observation Drive, there's just a lot of stuff that is being proposed and planned for that
4 campus that won't happen under a growth policy if the road isn't there. There might be
5 capacity somewhere else, but there won't be capacity there. And I don't think you would
6 want to see the full development based on capacity that's based on something else.
7 Edgar?

8
9 GLENN ORLIN:

10 I guess -- go ahead, Edgar.

11
12 EDGAR GONZALEZ:

13 From our perspective, we agree with everything that the chairman has said, but in
14 addition, we're looking at these Master Plans as a balance between the land use and the
15 transportation capacity that is being provided -- be it transit or highways or bikeways or
16 sidewalks, whatever. Or TMD. So if you're in the development of a project, there are five
17 interchanges proposed. If we do a preliminary analysis and we know that two of them
18 cannot be built and we cannot find alternative solutions, then we will leave the Master
19 Plan Amendment to occur, because there is not going to be balance unless we find an
20 equivalent alternative that will accommodate that capacity. So there is nothing wrong with
21 having to come back if there is no balance ultimately.

22
23 COUNCIL VICE PRESIDENT BERLINER:

24 Can I interrupt you for a moment and answer this question, and both of you can answer it?
25 If the road capacity isn't there sufficient for the project, either under our Local Area
26 Transportation Review or under PAMR, the project cannot go forward. It will not pass the
27 transportation tests. So I don't get it. Why do we have to specify any specific project, if in
28 fact the development is contingent upon specific capacity being built that would pass
29 these tests?

30
31 EDGAR GONZALEZ:

32 OK. There are very few specific projects in this -- in this staging. If you look at the staging
33 that is being -- that we agreed on, there are five interchanges. There are two interchanges
34 that had been named, but not specifically -- one interchange along Maryland 355 and then
35 the second interchange along Maryland 355. And that's on the basis of analysis that had
36 been done that those are the most likely to be very, very congested unless they are built.
37 OK?

38
39 COUNCIL VICE PRESIDENT BERLINER:

40 But again, if they're congested, then they won't pass the test if somebody comes forward,
41 so --

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1
2 **EDGAR GONZALEZ:**

3 But there are many subdivisions that go through -- that are approved, and this was the
4 example that we used last time. There is a subdivision that is approved, and it is approval
5 based on the contribution to the construction of that interchange. So you let 200 homes
6 go, a million square feet of economic development, whatever, with the caveat that they will
7 to contribute to the interchange. So it moves forward, but the interchange of never gets
8 built. And -- I mean, we have cases in point in which there are developers that had been
9 approved with contributions to do something, but it never happens, or it happens over a
10 very, very long time, that the growth policy wouldn't catch. So that's one of the reasons.

11
12 **COUNCIL VICE PRESIDENT BERLINER:**

13 Thank you, sir.

14
15 **ROYCE HANSON:**

16 Mr. Hardy may be able to help on this, too.

17
18 **DAN HARDY:**

19 Sure. For the record, Dan Hardy. I think it would iterate -- reiterate what's been said. Part
20 of it is we are trying to build a place, not just provide capacity, so I think the example was,
21 it's possible that we could run enough buses on I-270 someday to achieve some mode
22 share goals, and it's possible that we could change the growth policy year after year to
23 say, "Let's continue to call the conditions that we don't like today in Germantown and
24 consider them adequate." In fact, we'll have a good discussion with you this fall about
25 what we should consider adequate in White Flint. That's going to be an evolving process.
26 But the idea is that over time, we've got, you know, decades of development that we want
27 to see happen in Germantown, but we want to see it come on line with the community that
28 we're going to build, and that includes the Corridor Cities Transitway actually serving that
29 should be providing the users for the Corridor Cities Transitway. So, Edgar's points are
30 correct, that it's very challenging to craft an APF that will allow to catch every development
31 that we would want to catch if something that's as substantial as the Corridor Cities
32 Transitway or a Master Planned interchange is not built. There's not a nexus between
33 individual developments and something like the Corridor Cities Transitway.

34
35 **ROYCE HANSON:**

36 Just as historical note, Germantown was the first Master Plan adopted in the County that
37 had staging in it, going back to the 1970s. Now, one of the key elements in that staging
38 operation was, there needed to be a second interchange at 355. Originally there was only
39 one, at 118. And in order to keep things going, I remember very vividly going to the Board
40 of Public Works and defending the idea of funding that second interchange because it was
41 it an important element in the staging of Germantown and the allow -- and allowing

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1 Germantown to be completed, and I think we have an analogous situation here. If some of
2 this infrastructure is not provided, the growth policy will -- unless it's changed as Dan
3 says, in which we say, whatever you've got is fine; just keep going -- some of the things
4 that we're hoping will happen will just not be able to happen. It's important, we think, to
5 have those identified in the Master Plan and made triggers for next major components or
6 increments of development to occur.

7
8 COUNCIL PRESIDENT ANDREWS:

9 OK. We've got a couple more comments. I think this is very interesting and useful, and I'm
10 -- it sounds to me like your response essentially is, Because it doesn't work is why it
11 should be staged, even though theoretically, it might make a lot of sense to leave it to the
12 annual growth policy. But your response seems to be, it doesn't turn out well, or hasn't
13 turned out that well in the past when that's been the case. That's how I take your
14 argument at this point. Councilmember Elrich.

15
16 COUNCILMEMBER ELRICH:

17 I think there are a couple of argument for staging, and I think that both parties to this
18 discussion have made the argument in one bizarre form or another. I mean, Glenn, I think
19 you told me you were the architect of removing staging ceilings. Didn't you at one point
20 recommend removing the staging ceilings?

21
22 GLENN ORLIN:

23 I did, and at that time, I said if we get rid of the staging ceilings in the growth policy, then
24 we need be introducing staging ceilings in plans.

25
26 COUNCILMEMBER ELRICH:

27 OK.

28
29 GLENN ORLIN:

30 But you don't have them in both places. And in the 1970s, we did not have -- we needed
31 to have staging in the Germantown Plan because there was no annual growth policy.

32
33 COUNCILMEMBER ELRICH:

34 My concern is that these things -- that these things in Master -- in staging ceilings in
35 growth policies may go in and out of favor and that you can having staging ceilings, and
36 then somebody can come along say, "I don't think I want my staging ceilings in the growth
37 policy." And there is no certainty, then, to that process. And I think that what Dan alluded
38 to is in fact the argument I will have with you ad nauseam in the fall, which is, you will see-
39 - you will see in the White Flint Master Plan, the famous -- I hope you guys are still going
40 to use the slide where you tell the community that in order to have development in White
41 Flint, we have to redefine the acceptable level of congestion to a lower standard. And we

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1 have in fact a pattern of raising CLVs or whatever else we need to change in order to get
2 "acceptable" to match the conditions, rather than acceptable being an objective thing that
3 you actually hold over a long period of time. It just morphs as the conditions get worse.
4 And so I don't have a lot of faith in staging if -- in a growth policy because it's too easy for
5 people to be pressured and say, "I've got this beautiful, incredible project, and it doesn't fit
6 in the growth policy because the CLVs don't work." And you're going to turn your back on
7 this beautiful, incredible project because the CLVs don't work? So let's just change the
8 CLVs and declare that everything is perfectly fine. And I don't think that's a good way to
9 make public policy. So I like the idea of the least some of these elements residing in -- in a
10 Master Plan. Now, I don't agree with everything on this list, but I think that the
11 interchanges are important, and I think the CCT is actually critical. I don't know how you
12 can premise any of this development without the CCT. I just -- I don't get it. Now, you did,
13 you know -- you did offer a Plan B, which was to set goals that could be achieved that
14 would necessitate in themselves the CCT or a transit equivalent. And, you know, I would
15 be more comfortable if there were things that required, you know, in lieu -- instead of
16 saying, "You have to have the CCT at these points," if you were to say, "You need this
17 mode share to go to this point, you need this mode share to go to the next point" -- which,
18 you will never achieve that mode share unless you have this CCT -- then you're out of, or
19 then you're into the case you made to me, which is, what if you serve Germantown and
20 north with a bus system instead of the CCT being completed -- shoots everybody onto
21 HOT lanes on I-270 and brings them to Shady Grove.

22
23 GLENN ORLIN:

24 That's a nice segue. If you look on page 2 of the addendum, we offer that. We say that if
25 you do want to have staging, a kind of staging that makes sense would take a piece of
26 what the Planning Board and DOT is recommending, which is to have a non-auto mode --
27 a non-auto driver mode share goal for Stage 2 and Stage 3. I think we would go a little bit
28 higher.

29
30 COUNCIL PRESIDENT ANDREWS:

31 Graph 4 of page 2?

32
33 GLENN ORLIN:

34 This is page 4. I'll just read it. "If the Council desires a transportation staging element,
35 however, then it should be based solely on transportation performance, not the delivery of
36 certain projects. Bethesda CBD Sector Plan, North Bethesda/Garrett Park Master Plan
37 have mode share goals, and they have been useful in goading higher levels of transit and
38 ridesharing as development has proceeded. The Council may wish to consider, therefore,
39 incorporating the non-auto-driver mode-share goals in the revised staging plan" -- which is
40 19% and 22% -- "or perhaps even more stringent goals" -- we would say 20 and 25 -- "as
41 well as the establishment of a TMD, TMD fees, and a requirement for traffic mitigation

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1 agreements for all new developments of a certain size.” And the reason why we feel
2 comfortable making this kind of recommendations is that if you rely on the growth policy
3 as it is now, as you know, it’s looking at both highway as well as transit mobility. You could
4 have, as a result of that, theoretically, a totally highway- based solution in the next few
5 years and very little on transit. But if you want to make sure that transit is a substantial
6 part of that solution, you could require that you have to meet at least these kinds of mode-
7 share goals. And again, you’re not pinning it down to a particular project. You could not
8 reach the same level as the CCT in terms of transit service, but it’s more than nothing. It’s
9 more than what we have now. It’s not going from as little as we have now to suddenly a
10 lot. You can increment up, and as a result, increment up the amount of development that
11 could go forward in the Town Center.

12
13 COUNCILMEMBER ELRICH:

14 Well, I’m open to that as an alternative to specifying the CCT, but then answer my
15 question, what do I do with the intersections? Because in your case, you make the
16 argument that, what if something comes up and I don’t build the intersection?

17
18 GLENN ORLIN:

19 It fails.

20
21 COUNCILMEMBER ELRICH:

22 And it -- well, it fails depending what you do, then, with the growth policy, and then I can
23 un-fail it by changing the growth policy, but it doesn’t actually un-fail it in the real world. It
24 just unfails it on paper.

25
26 GLENN ORLIN:

27 Well, since the mid nineties, we have only tightened to the standards for the CLVs. We
28 have not loosened them.

29
30 COUNCILMEMBER ELRICH:

31 Yeah, but the -- the PAMR test is -- I mean, everybody -- most people would agree is sort
32 of like a joke.

33
34 DAN HARDY:

35 And with the exception of Germantown Town Center, where we created a new policy area
36 where we allowed more congestion in that area.

37
38 GLENN ORLIN:

39 I thought that was in the mid nineties. That was recently?

40
41 DAN HARDY:

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1 It happened --

2
3 COUNCILMEMBER ELRICH:

4 Can you think of any way -- I mean, aren't there any of these road projects that you
5 consider critical? Is everything fungible?

6
7 GLENN ORLIN:

8 Yes. Everything is fungible. I wouldn't say that any single project is a must-have for the
9 next stage.

10
11 COUNCILMEMBER ELRICH:

12 For the next stage, or for the build-out?

13
14 GLENN ORLIN:

15 Let me be terribly clear. All these are necessary for build-out. That's -- when you get to --
16 in the PHED Committee, when we talk about land use/transportation balance, it was
17 taking the entire build-out of development and comparing it to -- and the traffic that would
18 generate -- and the entire build-out of the transportation facilities -- the CCT, all the
19 interchanges or their equivalents, all the roads -- if both of them were done, the area is in
20 balance. And so, yes, you do need to have both at build-out. The question is, do we really
21 know which project has to come first for the first phase of development? No, we don't. We
22 don't. You know, we can say a project, this is really, really very important, and then
23 suddenly, that's going to have a problem. We can't move forward. Do we not do anything?
24 Are we stuck? Do we have to go back and amend the Master Plan? Or do we say, oh, no,
25 here's -- let's do this interchange over here instead or this road over here instead? And
26 maybe we can achieve the same level for that stage. In the end, you're going to need it
27 all. And Edgar is right. Edgar is raising a different point. It's not related to staging. It's a
28 different point, but it's a right point, which is if -- if M-83, we find, can't be built, we've got
29 to go back and change the plan. We're at the down zone or at capacity somewhere else,
30 we have to change the plan. If the interchange can't be built at a location and there isn't
31 an equivalent, we have to go back and change the plan. Different question, though.

32
33 EDGAR GONZALEZ:

34 But look again at the specifics of the staging that we -- that the two agencies agreed to.
35 Look at the specifics. In Stage 1, there are no really specific projects.

36
37 GLENN ORLIN:

38 There is, Edgar. It says the CCT -- prior -- Stage 2 can proceed --

39
40 EDGAR GONZALEZ:

41 Phase 1.

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1
2 GLENN ORLIN:

3 Stage 1 is -- nothing is required in Stage 1 other than setting things up.

4
5 ROYCE HANSON:

6 That's correct.

7
8 GLENN ORLIN:

9 And that was always the case. Stage 2 --

10
11 EDGAR GONZALEZ:

12 There is going to be some -- some preliminary engineering so that we know if these
13 interchanges are feasible, and if they are not -- remember, when a subdivision comes for
14 development, these interchanges -- order of magnitude interchanges in Montgomery
15 County, anywhere between 60 and 100 million dollars apiece. There is no developer that
16 can afford that kind of money. There are not two developers or three or four or five that
17 can afford that interchange. So if we really want to develop Germantown to the vision that
18 is being created here, we need to put the money in there, and either we have to lobby the
19 state, as was done in the past, or we do it ourselves.

20
21 GLENN ORLIN:

22 No arguments. That's why Miss Floreen asked for the letter -- actually, several people
23 asked for a letter from the board, and they're working on it, as to what facilities are needed
24 to make sure that we're not in the tan area of the PAMR chart. In other words, so we can
25 move forward. And that guidance is always going to be requested, but the question is
26 whether or not you need to do it in the growth -- in the plan itself. You've heard us talk a
27 lot. I think you want to go ahead and...

28
29 COUNCIL PRESIDENT ANDREWS:

30 OK.

31
32 COUNCIL VICE PRESIDENT BERLINER:

33 I just have a clarification request of staff, if I could. My question to staff is, is this your
34 affirmative recommendation to the Council with respect to the proposal that our County
35 Executive's people and Planning Board has put before us -- that you would amend their
36 proposal to focus on more performance standards of the nature that you have described?
37 Is this your affirmative recommendation to us?

38
39 GLENN ORLIN:

40 Our affirmative recommendation is not to have staging at all, but -- our -- just as much
41 from the recommendations. If you decide you do want to have some staging, then have



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1 the transit non-auto driver mode share proposals in for Stage 2 and Stage 3,
2 establishment of a TMD, establishment of TMD fees, traffic mitigation agreement
3 requirements, we would say 20 and 25%, respectively, for Stages 2 and 3. I think the
4 Planning Board has 19 and 22. But that's an alternative. Our primary recommendation is
5 not to have staging at all.

6
7 COUNCIL PRESIDENT ANDREWS:

8 OK. I like -- I like -- I'll just say that I like the idea of -- of the alternative that was
9 recommended by Dr. Orlin if the Council decided it wanted some form of staging. I think
10 it's a reasonable argument to say, "Base it on performance rather than on presence." It's
11 more flexible, but it gets you the results. It's a results-based approach. So I like that. I
12 don't know if there's support for doing that or not, but I'll state my preference, and I'll turn
13 to Councilmember Knapp, who's the chair of the committee.

14
15 COUNCILMEMBER KNAPP:

16 Mr. President, I thank you. I just wanted to make a couple of comments on staging. We
17 had some pretty lengthy conversation in the committee as it related to this, and I think it's
18 important to put out there that I think the committee is not opposed to staging as a
19 concept. I think as we go into some of these next Master Plans, where you already have a
20 lot of development that exists right now -- you have things that are there, and how do you
21 get from a "there" there to the next vision we have? It may make an awful lot of sense
22 because you already have things on the ground. I think one of the biggest challenges we
23 have in Germantown is, we're still trying to get a "there." We've put 100,000 people there,
24 65% of whom get in their cars every day and drive 35 to 40 minutes somewhere else
25 because there aren't any jobs in the community. If there was a reason for there to be jobs
26 there right now, they probably would have already been there. And so one of the biggest
27 concerns that we had -- and we had a lot of the conversation with the Planning Board
28 about this -- is, how do you... how do you spur on commercial activity and make sure that
29 you haven't stifled it. If you focus it all into Town Center, and we've heard from the Town
30 Center developers that they're not doing anything for the next 10-15 years because that's
31 what their leases are and they're content, and you commercial properties adjacent that
32 now can't go anyplace because of the way you've staged it, what have you
33 accomplished? You haven't created enough additional economic incentive for the folks in
34 Town Center to think about re-creating anything because there's no additional activity
35 taking place. And so while we keep saying we want to create a "there," you now create a
36 situation where there's no "there," and that's a problem. If I have barriers to entry in a
37 place like Germantown, one of the attractive elements, I think, as this County continues,
38 as the corridor continues to densify, will be, I can do some things in Germantown --
39 although it may be perceived to be a little further out, but it's economically more viable for
40 me to do it there than it is for me to go through the hurdles at a place like White Flint. If I
41 have to go through the exact same hurdles in Germantown and I do in White Flint, then

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1 might, heck, I might as well just go do it at White Flint. Or I'm going to go further up the
2 pike and I'm going to go outside the Montgomery County border and I'm going to go to
3 Urbana or Frederick City, which, guess what, that's what a lot of organizations are doing.
4 And so we've now created a situation which only perpetuates the notion that you've got
5 100,000 folks living there, all of whom are going to have to go someplace else because
6 we've essentially stifled the development within the core of Germantown. One of the other
7 challenges we have with staging is, which properties go, and when? We have this tiering,
8 which makes it sound as though it's on the basis of square footage, that gets approved on
9 a regular basis. It's not. There are certain properties tied to certain staging elements that
10 create real issues, so who picks what when, and how does that proceed? The other
11 element is, Town Center versus just the rest of the core. Germantown drives around kind
12 of the empty doughnut hole right now, and so people want to see activity in the doughnut
13 hole, not necessarily only along Century Boulevard right there at Town Center. They want
14 to see other activities. I think that's something that we need to look at. And some of the
15 elements that we've talked about -- relocation of a Park and Ride -- would love to happen.
16 We've been having that conversation for the last three years. We're not closer to getting
17 that done now than we were when we started the conversation three years ago. So we're
18 just going to -- again, we will just further stifle the development activity. And I think it's
19 important for us to also recognize, even in the mode-share goals discussion, the only two
20 places we've actually done that are Silver Spring and Bethesda, or North Bethesda --
21 places that already have, again, a level of density. They have infrastructure. They have
22 places where you can begin to make things happen if you provide the right incentives.
23 We're still hoping to try and get the things into a place like Germantown. And practically,
24 from a political perspective, as one who has been fighting the fight for the Corridor Cities
25 Transitway and widening of 270, to try and get people to pay attention to that, one of the
26 biggest issues we have working against us is the lack of people and a compelling reason
27 to do it. We have debate about a Purple Line because you have so much population along
28 that corridor. Whether it's for or against, you have people engaged in the discussion. As
29 you work your way up the pipeline, you don't have the political persuasion because there's
30 not a commercially compelling reason to proceed. If we actually start to get three or four
31 large employers to locate in a place like Germantown, guess what? There's now a
32 compelling reason for us to think about a Corridor Cities Transitway, and you can
33 politically bring some pressure to bear in a way that you can't right now. And so if all we're
34 going to do is wait for something to happen and say, "Well, we really ought to have
35 something, and if we get something someday, then we'll actually let this development
36 occur," we'll sit here for another 25 years, and we're not going to get to that point. And I
37 think these are just the practical elements we need to take into account. And so
38 appreciate what the Planning Board has put forward, and I think staging is something that
39 we're going to need to continue to look at as we look at the other Master Plans. I think as
40 you're still trying to create a place in somewhere like Germantown, that's not the place to
41 experiment. Let's find a place where we already have things taking place and experiment

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1 in those places and figure out how to do it in the right way. Let's not take a place that's still
2 trying to create itself and stifle the development because it happened to be the first Master
3 Plan before we got to the next two, and so we wanted to show that we could do staging
4 there first.

5
6 ROYCE HANSON:
7 Mr. President.

8
9 COUNCIL PRESIDENT ANDREWS:
10 Mr. Chairman. Thank you, Councilmember Knapp. That was helpful.

11
12 ROYCE HANSON:
13 I think that... I guess our view is that basically, within what is now proposed and what
14 could occur in just the first stage, before you get to any hard stuff, in terms of staging, you
15 could double the existing development in the Town Center. You could go from 8 million,
16 basically, to 16 million square feet. That's going to take quite a while. The... getting to
17 "there" there requires not just development, but it requires the infrastructure that serves
18 that development and can actually help stimulate the development and redevelopment of
19 the area. We -- we really think that including lumps of infrastructure along with succeeding
20 lumps of development is a very helpful way to think about the development of an area.
21 One of the problems of Germantown -- and Councilmember Knapp, I think, hits on it very
22 well -- is that the absence of a -- of a single developer means that development activity
23 tends to be disbursed. And to the extent that the public sector can help move some of that
24 to particular places, that -- that's good. And we're limited in what we can do with that, but
25 one of the ways that we deal with that is the provision of critical pieces of infrastructure.
26 Now, I go back to the question of Observation Drive as an illustration. We could -- there
27 are important goals to be sought in the development of the Germantown campus. We
28 could have the general capacity for development, and it still couldn't develop if somebody
29 else came in first and used the growth policy capacity that's available and we didn't
30 provide the infrastructure that's needed to really have that project be fostered and
31 developed. But I think we've probably raised all the issues that will be raised. You're
32 probably ready to decide.

33
34 DAN HARDY:
35 Well, we should -- we should clarify that our proposal now does not have community-by-
36 community staging. So the Planning Board draft plan did have different staging levels for
37 each community. Now it is all in one lump.

38
39 COUNCIL PRESIDENT ANDREWS:
40 Thank you. Councilmember Elrich.

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1 COUNCILMEMBER ELRICH:

2 Yeah, I recognize that there's not support on the Council for doing what -- what the board
3 and the Executive would like to do, but I would like to explore the option that Mr. Orlin put
4 forward of at least setting some staging based on the transportation piece and mode
5 share. I think there is no -- if we don't do any of that, then this is just another sprawl
6 development. If there's no assurance that there's something that you're going to link this
7 thing with transit, then you're never going to achieve any goal out there. And I think it's OK
8 to link in the transit piece to additional stages or mode shares to additional stage. So
9 leaving aside whether it's the CCT or not, I'd like -- I like Mr. Orlin's alternative of at least
10 saying you have to achieve certain, you know, modal split in order to go forward.
11 Otherwise, it'll only be driving. And I will say to you, I am puzzled that for a community that
12 we talk about as basically this planned community that we're now trying to provide as
13 many jobs as the community needs, why we shy away from a 35% mode split, frankly, is
14 the end state. I mean, you're going to have the CCT running through the middle of it, and
15 you've got basically this whole town planned around this Town Center, why we can't
16 actually envision a bus network, just a regular bus network, on top of the CCT, that would
17 let you, at build-out, achieve 35% of transit. I'm baffled why we've given up on that and
18 are just saying it's only going to be 25%, given all the jobs we plan on putting in there.

19
20 COUNCIL VICE PRESIDENT BERLINER:

21 Is that a motion?

22
23 COUNCILMEMBER ELRICH;

24 I just want to -- if Glenn would formulate something --

25
26 GLENN ORLIN:

27 Well, I'll read it. It would say as follows. Upon approval of the Sector Plan, begin work to
28 establish a TMD -- Transportation Management District, TMD -- that adopts the Sector
29 Plan's transit mode share goals, which is a 25% non-auto- driver mode share for people
30 arriving to Germantown to work, in the preliminary. Establish TMD fees by Council
31 resolution. You have TMD fees for other areas where you have TMDs. Develop an annual
32 monitoring program for non-auto driver mode share. That's something that actually was I
33 the Planning Board's recommendation. For any project approved subsequent to the
34 approval of this plan, requires a traffic mitigation agreement achieving a 25% non-auto
35 driver mode share for employees during the morning peak period, and you'd exempt
36 projects generating fewer than 30 peak-hour trips -- in other words, the small ones, which
37 aren't likely to be able to do such a thing. Before approval of commercial development
38 exceeding 16 million square feet, which is the same as -- or residential development
39 exceeding 10,000 dwelling units, which is the same definition as the Planning Board has
40 for Stage 2, the non-auto drive mode share is increased to 20% for employees during the
41 morning peak period in the previous 12 months. The board had recommended 19% -- or --



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1 I'm sorry. The chairman and the DOT, in this last version, recommend 19. And then finally,
2 before approval of commercial development exceeding 20 million square feet or
3 residential development exceeding 13,000 dwelling units -- again, the same definition of
4 Stage 3 -- non-auto driver mode share is increased to 25% for these employees during
5 the morning peak period in the previous 12 months. The revised plan you received from
6 the Planning chairman and the DOT was 22. The reason why we said 25 was because
7 once you get to Stage 3 and you're into it, what's the incentive to actually get to -- if you
8 only have 22, how would you ever get to 25, unless you've said that by the time you
9 reached it, you were going to get to 25? So that would be the alternative. And I can give
10 you copies of that.

11
12 COUNCIL VICE PRESIDENT BERLINER:

13 There's a motion...

14
15 COUNCILMEMBER ELRICH

16 To do that.

17
18 COUNCIL VICE PRESIDENT BERLINER:

19 And there's a second.

20
21 COUNCIL PRESIDENT ANDREWS:

22 OK. So it's been moved and seconded -- moved by Councilmember Elrich, seconded by
23 Council Vice President Berliner. Councilmember Knapp, do you want to make some more
24 remarks?

25
26 COUNCILMEMBER KNAPP:

27 Thank you, Mr. President. I just want to briefly respond to the notion of sprawl.
28 Germantown is a community of 100,000 people in the corridor, the I-270 corridor, which is
29 in the heart of our "wedges and corridors" plan. It's an activity center, as identified by the
30 Council of Governments. This is a community where we have decided as -- a long time
31 ago that we're going to have residential activity and commercial activity. We're way past
32 having this being known as sprawl development. At one point, when everything was
33 focused in the DC core, yes, there was a time -- 30, 40 years ago -- when to say, "We're
34 going to build in Germantown one day," that might be sprawl. At this point, it's exactly
35 fulfilling the mission of the -- of the General Plan, and actually of the region as a whole,
36 and actually is a pretty good example of smart growth. The challenge is, we haven't
37 actually put the jobs there yet. If we can get the jobs there, we actually create a situation
38 where people can live where they work and we'll actually eliminate a lot of the issues that
39 we're running into by pulling those people off the roads. So I just want to get us past the
40 notion of sprawl development, because it's not and only reconfirms for folks who don't live

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1 in that part of the County that somehow this is. It's not. You've got 100,000 folks there,
2 and we've moved way past that.

3
4 COUNCILMEMBER ELRICH:
5 With no transit.

6
7 COUNCIL PRESIDENT ANDREWS:
8 Thank you, Councilmember Knapp. And you're right -- it is a corridor city, right, and it's
9 been planned a long time, and we've still got some work to do. But it's -- it is --

10
11 ROYCE HANSON:
12 Could I ask a question, just for clarification?

13
14 COUNCIL PRESIDENT ANDREWS:
15 Yeah.

16
17 ROYCE HANSON:
18 If Mr. Orlin's proposal is approved, does that mean when we -- that in approving a
19 subdivision, to demonstrate consistency with the Master Plan, we may not approve a
20 subdivision that does not have a Transportation Demand Management plan that would
21 achieve a 25% modal split?

22
23 COUNCIL VICE PRESIDENT BERLINER:
24 Well, I think it's a clarification. It's a fair question as a clarification.

25
26 GLENN ORLIN:
27 Actually, it's Mr. Elrich's proposal. I -- it was one -- my proposal was no staging, but this is
28 the alternative. But, yes, that's true, except -- unless it's a development that generates
29 fewer than 30 trips. They would be exempt.

30
31 COUNCIL PRESIDENT ANDREWS:
32 OK. Edgar, did you --

33
34 EDGAR GONZALEZ:
35 Yeah. That -- OK. Think about what we're -- what is being proposed here. There is no
36 possibility for bus expansion. We don't have the capacity to expand bus service for the
37 next three years. There is no CCT. There is not going to be CCT in Germantown for at
38 least five years or more. So we, in fact, we are going to tell people, you have to go and
39 carpool, meet somewhere, to ride to Germantown. That's what is being proposed. I just
40 don't see how feasible that is going to be. I don't think that is going to be very achievable.

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1 DAN HARDY:

2 Our concern on five minutes of discussion here is that we might be about to put something
3 in place that could really dampen economic activity in Germantown. So that's --

4
5 COUNCIL VICE PRESIDENT BERLINER:

6 Let me -- let's get your bottom line. Is this worth -- I only count four votes here anyway, but
7 my... so my question to you, gentlemen -- is this worse than no staging at all, in your
8 judgment? Because if it's worse than no staging at all, then we shouldn't do this. But it is
9 either going to be no staging or what is attempted to be a compromise here in order -- and
10 I believe there are only four votes for the compromise, so I don't think we're going to get
11 there, but let's end this conversation. If your judgment is that this is worse than no staging
12 and that the committee's recommendation is preferable to that which is being discussed,
13 say so, and we'll be done with this.

14
15 ROYCE HANSON:

16 I guess I would say -- I would say this is a hell of a way to make a Master Plan -- on the
17 fly. I think -- I think there is a real danger that it would shut down new development.

18
19 COUNCIL VICE PRESIDENT BERLINER:

20 OK. Then -- OK. Thank you. Then -- then I withdraw -- I will withdraw my second.

21
22 COUNCILMEMBER ELRICH:

23 OK. I'll withdraw my motion, because my assumption was that Glenn wasn't proposing
24 shutting down Germantown. Do you believe it would shut it down?

25
26 COUNCIL VICE PRESIDENT BERLINER:

27 It doesn't matter. We're done. We're done. We got the experts on this.

28
29 COUNCIL PRESIDENT ANDREWS:

30 OK. All right. So the committee recommendation is accepted. And do we have any other
31 issues? We have the bike issue, I think.

32
33 GLENN ORLIN:

34 Oh, we have lots of issues, yes.

35
36 COUNCIL PRESIDENT ANDREWS:

37 OK.

38
39 GLENN ORLIN:

40 But hopefully -- what I can do is just say what the recommendation to the committee was
41 and then see if there's any discussion, and then --

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1
2 MARLENE MICHAELSON:

3 We're done with land use issues, just to clarify...

4
5 GLENN ORLIN:

6 She can leave.

7
8 MARLENE MICHAELSON:

9 And it's the transportation, so...

10
11 GLENN ORLIN:

12 Right. While we're in the addendum packet, let's deal with the issues that Jack Cochrane
13 has raised, if you would. On the bikeway elements -- this is the bottom of page 2 and top
14 of page 3 -- the -- Jack is the chair of the Montgomery County Bicycle Advocates. I just
15 met with the group, and they had some comments that just came in on Friday --
16 essentially 12 comments -- and they're summarized in the table on circle 7 of the
17 addendum. And you'll see the numbers 1-12 there. We actually had a -- talk about a
18 collegial working together. We actually have unanimous agreement not just between DOT
19 and Park and Planning staff, but Council staff, as well, about these particular 12
20 recommendations, and they are as follows. Items 2, 3, 6, 9, and 11 on circle 7, we agree
21 with Jack. We're recommending that they should -- that his recommendations here should
22 go in the plan. Primarily what they are is to take a road which is planned to be having a
23 hiker/biker path adding to it, making it a dual roadway, a dual bikeway -- having it so
24 there's a hiker/biker path and the roadway itself is wide enough in the curb lane to be able
25 to accommodate bikes safely. There's a couple of these examples where there's not a
26 hiker/biker path, but the recommendation is just strictly make the curb lane wide enough,
27 and we agree with those. We disagree on number 1, 4, 5, 8, and 12. These are primarily
28 roads that are within the urban area, either the Germantown Town Center policy area, as
29 recommended to be expanded by the Planning Board, or in the cloverleaf area, which the
30 PHED Committee has also recommended to have the urban street standards in the road
31 code. And the point here is, we don't want to see these roads widened further for
32 additional width for -- for bikes because in these areas, the lanes should be narrow
33 enough so that the target speeds are low enough so that it's not necessary and would
34 make it more difficult for pedestrians. So we disagree with those five. And then finally,
35 number 7 and 10 of his recommendations actually fall outside the geographic boundary of
36 the Sector Plan area, so it's really not appropriate to include them in the plan.

37
38 COUNCIL PRESIDENT ANDREWS:

39 OK.

40
41 GLENN ORLIN:

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1 So these that I'm just mentioning are not things the committee reviewed because this just
2 came in on Friday, and -- but these are the unanimous recommendations of Park and
3 Planning, DOT, and Council staff.

4
5 COUNCIL PRESIDENT ANDREWS:

6 All right. That should count for something. OK.

7
8 GLENN ORLIN:

9 Sometimes.

10
11 COUNCIL PRESIDENT ANDREWS:

12 All right.

13
14 GLENN ORLIN:

15 And just to wrap up this -- this -- unless there's any -- should I just move...

16
17 COUNCIL PRESIDENT ANDREWS:

18 I think no one -- no one is raising any alternative to that, and so let's accept those.

19
20 GLENN ORLIN:

21 On page 3 of the addendum -- then we'll go back to regular 19B -- DOT brought up at the
22 last meeting, and they're correct, that that there was a comment in the PHED Committee
23 that the footnote to the road classification table for target speed should include the
24 language which says, "target speed listed reflects the ultimate target speed for each
25 roadway segment upon build-out, and the characteristics of the road design are to be set
26 in a context-sensitive manner." That's correct and really ought to be in the -- in the -- in the
27 -- as a footnote in that table. We found that Locbury Drive didn't appear in the table. It
28 belongs there. It's in the Master Plan, and it's actually in the map, so it should be in the
29 table as well, with the section between Wisteria Drive and Middlebrook being a business
30 street, and between Middlebrook and Crystal Rock as a primary residential street. And
31 finally -- again, in this packet, at least, the bikeway and roadway classification maps,
32 which actually are in the plan -- I missed this; they're earlier in the plan -- should be just
33 put in proximity to the tables, their associated tables. With that, let me just go back to the
34 main packet, and again, hopefully we'll work through this without too much bother. There
35 was really only one recommendation where there was a split vote in the committee. The
36 first issue on page 2, top of page 3, is land use/transportation balance, and the conclusion
37 of the Committee was that the plan is, in effect, in land use/transportation balance, which
38 is what I explained earlier about how once the plan builds out in terms of land use, it also
39 builds out all the transportation facility, there will be adequate capacity of build-out for --
40 for Germantown Town Center -- Germantown Employment Area. For the -- on page 3, the
41 other urban areas, the PHED Committee agreed with the Planning Board in the final draft

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1 that the Town Center policy area should be expanded and that -- so therefore, the urban
2 area designation in terms of road code standards would be expanded into that larger area,
3 but that in addition, that the Council should follow up this plan by incorporating the
4 Cloverleaf District as an urban area, as well, because it has similar density, certainly
5 similar street patterns in terms of what's planned. And so you want to have a similar set of
6 standards for that area, as well. The one split vote in the committee is the next item,
7 having to do with the right-of-way for Maryland 355. Here, the Planning Board is
8 recommending that the right-of-way for 355 be widened from 150 feet to 250 feet as
9 essentially a guard against the possibility that M-83 eventually may not be built because of
10 the results -- the final results of the studies that are underway now. What I posed was
11 some compromise language, which the majority of the committee, Mr. Knapp and Mr.
12 Elrich, agreed to, which is top of page 4. It would have the right-of-way be 250 feet, but it
13 would say, "This plan recommends a minimum of 250 feet right-of-way for Frederick Road
14 (355) pending completion of the Midcounty Highway Extended (M-83) study and
15 Countywide Bus Rapid Transit facility planning studies. Following completion of these
16 studies, the Council may, by resolution, set a smaller minimum right-of-way, but not less
17 than 150 feet." In other words, if you find that M-83 is buildable, then you might come back
18 and say it should be 150. If you find that it may be buildable but you want BRT, you may
19 want to keep it at 250. Or you may find out that it's not buildable and you do want to have
20 it wider, at 250, and you keep it that way. But the point is that you would have that
21 flexibility. Councilmember Floreen, however, disagrees with that. She agrees with the
22 Executive and DOT that the right-of-way should remain at 150 feet, and I think the point
23 there is that these are both Master Plan facilities the rights-of-way should reflect,
24 assuming all that's going to happen.

25
26 COUNCIL PRESIDENT ANDREWS:
27 OK.

28
29 GLENN ORLIN:
30 OK. No discussion. I'll move on. Item 5, the Planning Board and the Executive are saying
31 that there may be these grade-separated interchanges along 355; however, in individual
32 cases, maybe even in all cases, there may be an at-grade solution with a different kind of
33 design which would provide equivalent amount of capacity, and they should be
34 considered, consistent with the plan, as well.

35
36 COUNCIL PRESIDENT ANDREWS:
37 OK.

38
39 GLENN ORLIN:
40 OK. The Aircraft Drive/Crystal Rock Drive one-way pair was something that the Planning
41 Board is recommending be studied. That is important to understand, because I think some

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1 -- there's some misunderstanding about this. It's not a recommendation of the plan, but
2 that it be studied, and the PHED Committee agrees with that.

3
4 COUNCIL PRESIDENT ANDREWS:
5 OK.

6
7 GLENN ORLIN:

8 Cider Press Place -- a lot of discussion about this, with the college particularly. In the end,
9 the committee's recommendation is to concur with the location of Cider Press Place, the
10 connection from Observation Drive over to 355, as was recommended by the PHED
11 Committee and the Education Committee back in April, but adding a note stating that an
12 alternative route may be selected, and the language I'm suggesting would say as follows.
13 "An alternative route connecting Observation Drive to 355 may be selected, as long as it's
14 a two-lane minor arterial with direct access to and from northbound and southbound 355."
15 The purpose of this was that if for some reason -- and it's up on the -- thank you. It's up on
16 the screen now. The line, the arrow that says "Sector Plan," if that one, 20 years from now
17 or whenever, whenever this road gets around to being built, there's the thought that, "Oh,
18 maybe it's better to do option 2 instead," then that would be OK as long as it was two
19 lanes, minor arterial, and had access both to and from northbound and southbound 355.

20
21 COUNCIL PRESIDENT ANDREWS:

22 Dr. Orlin, thank you. I'm sensing support on the Council for the rest of the committee's
23 recommendations. Are there any questions that anyone would like to raise about the other
24 issues that we haven't yet covered in transportation, that appear to be unanimous, at least
25 in committee? Councilmember Elrich, do you want to -- do you have something to say?

26
27 COUNCILMEMBER ELRICH:

28 Are we coming back to the Cider Place -- the Cider Press building? Because we have this
29 email about the developer wanting to open up the Cider Press and actually leave it in its
30 current location and operate it as a store and -- is that...

31
32 COUNCILMEMBER KNAPP:

33 No, that's not Cider Press. That's Cider Barrel.

34
35 COUNCILMEMBER ELRICH:

36 Cider Barrel. Yeah. And then -- so that was new information to me, and I'm wondering
37 where we're going to handle that.

38
39 COUNCIL VICE PRESIDENT BERLINER:

40 Can we -- can we move forward with the Council President's recommendation, other than
41 reserving on that issue?

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COUNCILMEMBER KNAPP:

Well, that's not in this -- that's not in this.

COUNCIL PRESIDENT ANDREWS:

That's a different packet. Right. Well, let me ask. Are there any comments that any Councilmembers have or questions about any of the transportation elements that are in the rest of the packet, which include the West End street network, the CCT, right-of-way width for the CCT/Century Boulevard, access from I-270 to Dorsey Mill Road or Father Hurley Boulevard, minor arterials, Crystal Rock alignment in the North End District, proposed street cross sections and target speeds, and other road and right-of-way recommendations and bikeways. Anybody have any questions or problems with the committee recommendations on any of those items? No? So, all right, we'll accept those, then. And any other issues. We have the one that Councilmember Elrich just raised. Is there anything else?

COUNCILMEMBER KNAPP:

I wasn't bringing that back. I mean, it wasn't necessarily anything that had been raised to my attention. If that's not -- if there's something someone wanted to raise as it relates to Cider Barrel --

COUNCILMEMBER ELRICH:

I think we had a recommendation.

COUNCILMEMBER KNAPP:

Marlene is now sprinting back downstairs.

COUNCILMEMBER ELRICH

I mean, there had been the recommendation we made to move it, and they were saying, "Don't move it. We're willing now to open it up and operate it."

COUNCILMEMBER KNAPP:

And I don't think our -- I think our recommendation was general enough, and the Master Plan was, that if somebody wanted to do something, that would be fine, or we want to move it to an appropriate place that would be utilized, I think was the language that we had used. We can check back with Marlene to make sure that's the case, but I didn't think we said, "It definitely has to move." We just said we want it to be a part of a more integrated plan in the community, and where it is on 355, you can't even access it, so...

COUNCILMEMBER ELRICH:

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1 I wanted to be sure we didn't preclude -- if somebody comes up with a clever plan, that we
2 don't preclude that.

3
4 COUNCILMEMBER KNAPP:

5 I don't believe we have, but we can certainly follow back up with Marlene to make sure.
6 But I thought we were general enough in our language so that it could stay there, but it
7 didn't have to.

8
9 COUNCIL PRESIDENT ANDREWS:

10 OK. I don't see any other. Are we ready, then, for a preliminary vote, or a straw vote, so
11 that the staff can draft a final resolution for approval in September? I see people nodding.
12 OK. All right. Then all those in favor of the Sector Plan as it has evolved through the
13 various recommendations, please raise your hand. That is Councilmember Elrich,
14 Councilmember Trachtenberg, Councilmember Floreen, myself, Council Vice President
15 Berliner, Councilmember Knapp, Councilmember Ervin, and Councilmember Leventhal. I
16 want to thank Councilmember Knapp, especially, for his leadership and for the -- the
17 PHED Committee for their hard work -- Councilmember Floreen and Councilmember
18 Elrich. The PHED Committee worked very diligently on this, including during the recess
19 the Council had a few weeks ago. And I want to thank our staff, Dr. Orlin and Marlene
20 Michaelson, and the Planning Board and the Executive branch and everybody else who
21 played a role in this. And Councilmember Knapp, you have a final word.

22
23 COUNCILMEMBER KNAPP:

24 Just want to thank the Council for their efforts, and the Planning Board and staff, because
25 we're going to have a lot of these conversations between now and December, so enjoy
26 the recess, because we're going to come back and do a whole lot of land use. So thank
27 you, and good luck. Rest well, and we'll see you all back here soon.

28
29 COUNCIL PRESIDENT ANDREWS:

30 Council is adjourned.
31